3915

SUPREME COURT OF THE UNITED STATES.

No. 196.

THE EXECUTORS AND HEIRS OF AGUSTIN DE YTURBIDE, DECEASED, APPELLANTS,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this sixth day of July, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petiton of the executor and heirs of Agustin de Yturbide for twenty leagues square of land was presented, and ordered to be filed and docketed with No. 281, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *December 24th*, 1852.

In case No. 281, the executor and heirs of Agustin de Yturbide for twenty leagues square of land, the deposition of Joseph Y. Simantour, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with documents marked H. H. Nos. 1 and 2, annexed thereto, was filed.

(Vide page 13 of this Transcript.)

In the same case, the deposition of José Abrego, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed.

(Vide page 15 of this Transcript.)

In the same case, the deposition of William Waln, jr., a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed.

(Vide page 17 of this Transcript.)

SAN FRANCISCO, *October 3d*, 1854.

Case No. 281 was submitted on briefs, and taken under advisement by the board.

SAN FRANCISCO, *December* 19, 1854.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board rejecting the claim.

(Vide page 67 of this Transcript.)

And the following order was made, to wit:

(Vide page 69 of this Transcript.)

Petition.

STATE OF CALIFORNIA, *ss.*

To the Hon'ble the Board of Commissioners of the Unied States for the settlement and adjudication of private land claims in California.

The petition of Don Hilario Elguero, executor of the last will and testament of Don Augustin de Yturbide, deceased, and of Doña Maria Huerte de Yturbide, the widow of the said Augustin de Yturbide, and of Don Augustin Geronimo de Yturbide, Angel de Yturbide, Salvador de Yturbide, Felipe de Yturbide, Augustin C. de Yturbide, Doña Sabina de Yturbide, and Josefa de Yturbide, the children, devisees and heirs-at-law of the said Augustin de Yturbide, deceased, respectfully showeth: That your petitioners are all residents and citizens of the republic of Mexico, except Doña Maria Huerte de Yturbide, Sabina de Yturbide and Josefa de Yturbide, who for the present reside in the city of Philadelphia, in the State of Pennsylvania, in the United States of North America. Your petitioners further show, that the said Don Augustin de Yturbide, deceased, at the time of his death, in the year 1824, was a citizen of the said republic of Mexico, and prior to his death, in the year aforesaid, executed and published his last will and testament in writing, in due form, according to the laws and usages of the said republic, and the said will has been duly probated in the proper court, at the city of Mexico, in the said republic. A certified copy of the said will, duly authenticated, is herewith filed, and referred to as part of this petition, and marked "Exhibit A;" also a translation thereof marked "Exhibit B." That two of the executors named in said will having died, and the third having renounced his said executorship, whereby there was a vacancy in the said executorship, your petitioner, Don Hilario Elguero, on the 22d day of September, in the year 1850, was duly appointed by the proper authority, in the said city of Mexico, dative executor of the said will, and by virtue of said appointment, now is the sole executor of said will, with full authority to execute the same, as will appear by a certified copy of the said proceedings herewith filed and marked "Exhibit C," and a translation thereof marked "Exhibit D." That besides the children hereinbefore named, the said Don Augustin de Yturbide, deceased, left at the time of his death two other children, to wit, Inana Yturbide and Jesus de Yturbide, who have since died intestate and unmarried, leaving their brothers and sisters aforesaid their heirs-at-law, and who have thereby succeeded to all their rights in and to the estate and succession of their deceased father. That by virtue of the will aforesaid, and of the laws, usages and customs of the said republic of Mexico, your petitioners have succeeded to, and are justly entitled to enjoy all the rights, titles and interests in and to all real estate which in any manner

appertained to the said Agustin de Yturbide, deceased, at the time of his death, or to his estate or succession since his death.

Your petitioners further show, that the said Augustin de Yturbide, for some years prior to his death, was a distinguished citizen of the republic of Mexico, and in the year 1821–'2, bore a conspicuous part in achieving the independence of his country; which up to that period, as is well known, had been a dependency of the Crown of Spain. Indeed it is a well known historical fact, that he was the chief author of the revolution which resulted in the independence of Mexico; and that by his skill, prudence and moderation, not less than by his personal prowess, he conducted the revolution to a successful issue, and established the new republic upon a firm basis.

Duly impressed with a profound sense of gratitude to Don Augustin Yturbide, as the author of his country's independence, the supreme government of Mexico, on the 21st day of February, 1822, by its decree of that date, in due form of law granted to him in "full ownership and property" the estate of the suppressed society of the inquisition, to the value of one million of dollars; and also "a tract of land of twenty leagues square, in the province of Texas, in the location he may deem most advantageous." By virtue of this decree, the said Yturbide was authorized at any time to locate the said land at such places as he might select in the then province of Texas. But before such location was made, and indeed shortly after the grant, the said Yturbide departed this life, leaving his family in a very destitute and helpless condition. In the meantime, the province of Texas having revolted from the government of Mexico, the supreme government of the said republic of Mexico, on the 18th day of April, 1835, by its decree of that date, in due form of law, ratified the prior decree of the 21st February, 1822, and authorized the executor and heirs of the said Yturbide to locate the said twenty leagues square in the territories of New Mexico or in Upper and Lower California, (if it could not be had in Texas,) on such terms as the government might agree upon with the parties interested. For several years subsequent to the decree of the 18th April, 1835, the said republic was in a very unsettled condition, being distracted with intestine broils, and the family of the said Yturbide was in very straitened circumstances, and without the necessary means to perfect the selection, survey, and location of said lands; and in the year 1840 or 1841, Don Juan Gonez Navarete, then the sole acting testamentary executor of the said Augustin de Yturbide, deceased, petitioned the supreme government of Mexico for authority to locate the whole of said lands in Upper California, which petition was granted, and the said lands authorized to be so located by a decree of the said supreme government in one of the years last aforesaid. The said petition, however, and the decree in response thereto, cannot now

be found amongst the archives of the Mexican government, and it is believed they were lost or abstracted whilst the city of Mexico was in possession of the American army in the year 1847. At all events your petitioners charge that there were such documents, and that there was a valid and formal decree of the said supreme government, authorizing such location in Upper California, as will be made abundantly manifest by other official documents hereinafter to be mentioned.

Your petitioners further show, that on the 19th day of May, 1845, the said Navarete, still continuing to act as the testamentary executor of the said Yturbide, presented his petition of that date to the supreme government of Mexico, reciting that on the 20th day of February, 1841, he had been duly notified by the minister of the interior, that his prior petition, asking permission to locate said land in Upper California, had been granted, and that the widow and heirs of said Yturbide were anxious to proceed without delay to locate the same, in pursuance of said authority, but up to that period had been prevented from doing so by the want of the necessary means; that one of the said heirs, having then recently completed his 25th year, proposed to proceed immediately to Upper California to select the said lands, and have the same surveyed and located, provided he could be furnished with a sum of money sufficient to defray the expense thereof; to which end he prayed that the necessary orders might be issued to the governor of Upper California for the survey and location of the land, and that the sum of two thousand dollars might be paid to the estate on account of the one million of dollars due to it from the government under the decrees of the 21st February, 1822, and the 18th April, 1835, so that the widow and heirs might be able to defray the expenses of the survey and location of said lands.

On the fifth day of June, 1845, the minister of foreign affairs, goverment, and police, in an official communication of that date to the said Navarete, informed him that his petition of the 19th May was granted, and that on that day the necessary orders had been despatched to the governor of Upper California, directing him to cause to be surveyed the twenty leagues square, at such places in the vacant lands of the department of Upper California as the said Salvador de Yturbide might point out; and also that the supreme government had authorized the said sum of $2,000 to be advanced to defray the expenses of the survey, as asked for. On the same day, to wit, the 5th June, 1845, the said minister of foreign affairs, government and police, addressed an official communication to Pio Pico, then the governor of Upper California, informing him that Don Salvador de Yturbide, son of his excellency Don Augustin de Yturbide, was about to visit Upper California, in order to receive for himself, and in the name of his mother and brothers, the 400 square leagues of land which the

decree of the 18th April, 1835, granted to his family as a recompense for services rendered by Don Augustin de Yturbide for having achieved the independence of his country, and instructing the said governor to proceed to the survey of the said lands on such parts of the vacant lands of the territory as might be satisfactory to said Salvador. In reply to this communication, Pio Pico, then governor of Upper California, addressed an official communication, under date of the 20th October, 1845, to the minister of foreign relations, government and police of the republic of Mexico, acknowledging the receipt of the former communication, and promising that on the arrival of the said Salvador in Upper California he (the governor) would immediately proceed with the said survey on such of the vacant lands of the territory as might be satisfactory to the said Salvador; all of which will more fully appear by reference to certified copies of the said decrees of the 21st February, 1822, and the 18th April, 1835; the petition of the said Navarete of the 19th May, 1845; the reply of the minister of foreign relations thereto, under date of June 5th, 1845; the official communication of the said minister of the same date to the governor of Upper California, and the reply of the said governor thereto under date of 20th October, 1845, which are herewith filed as parts of this petition, and being attached together in one file, are marked "Exhibit E," and to translations thereof, also filed herewith, and marked "Exhibit F."

Your petitioners further show, that in the month of July, 1845, immediately after the order was issued to the governor of Upper California to cause the said lands to be surveyed, the said Salvador de Yturbide set out from the city of Mexico, for the purpose of visiting Upper California, with a view to select and locate the said lands; but being then attached to the army of Mexico, and an officer in actual service, whilst on his journey a revolt broke out in one of the Mexican provinces, whereupon he was recalled to the capital and sent upon military duty, whereby his contemplated journey was for the time being defeated. In the following year he again attempted to reach Upper California, for the sole purpose of perfecting the said location and survey, and had actually proceeded on his journey as far as the city of Tepic—a distance of about six hundred miles—when he was again recalled in consequence of a sudden revolt against the government at the city of Mexico. About this period, also, the war broke out and hostilities commenced between the republics of Mexico and the United States, and very soon thereafter Upper California was in the possession of a military force of the latter government, thereby precluding all efforts on the part of said Salvador, or those jointly interested with him, to cause the said lands to be located and surveyed. The events which subsequently transpired in California are matters of history, and need not be recited in this petition.

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Your petitioners further show, that their delay in locating and causing the said lands to be surveyed, since the decree of 1841, authorizing the location in Upper California, has resulted solely from the causes hereinbefore recited, and not from any purpose to abandon their said claim; on the contrary, nothing but a want of the necessary means to defray the expenses of the survey prevented them from proceeding therewith, immediately after obtaining the decree of 1841; and so soon as the supreme government in 1845 obviated this difficulty by advancing the necessary sum, they took the necessary steps to commence and perfect the survey as hereinbefore recited, and were only prevented from proceeding therewith by causes over which they had no control, as is hereinbefore set forth.

Your petitioners further show, that there are large quantities of vacant and unappropriated lands within the State of California, not claimed by or justly belonging to any private individual, on which vacant and unappropriated lands your petitioners' claim ought in equity and justice to be located. They charge that, except for the cession of Upper California to the United States, their grant would long since have been perfected into a perfect title by the survey and location of the land, which was all that remained to be done at the date of the treaty of Guadalupe Hidalgo, and that, according to the laws, usages and customs of the Mexican government, their said title could and would have been so perfected if California had remained a province of Mexico. They claim, therefore, that their rights are protected by the said treaty, and by the law of nations, and having, as they conceive, the strongest possible claim upon the equitable consideration of your honorable board, they respectfully pray that their said title may be confirmed, and that your honorable board will direct the said lands to be located and surveyed upon the vacant and unappropriated lands within the State of California, provided the location thereof as hereinafter mentioned shall be held to be invalid. Having been prevented, by the causes hereinbefore recited, from locating said lands prior to the treaty of Guadalupe Hidalgo, and being authorized by the very terms of the grant to locate the said lands on any vacant lands of the government in Upper California, which your petitioners might select, they have proceeded to locate the same, since the said treaty, upon the following tract, situated on the west bank of the Sacramento river, and bounded as follows, to wit: beginning at the mouth of the Putah creek on the west bank of the Sacramento river; thence with the meanders of Putah creek, in a northwesterly direction to Clear lake; thence with the eastern margin of said lake to the extreme northern end of said lake; thence due north to the foot of the mountain called and known as the Coast range; thence with the foot of the said Coast range, in a northeasterly direction to the forty-first parallel of north latitude; thence due east with said parallel

of latitude to the Sacramento river; and thence with the meanders of said river to the place of beginning; containing four hundred square leagues in superfice, equal to twenty leagues square. They have caused a map or diagram of said lands to be made, which represents accurately and fairly the locality and description of said lands, and which is herewith filed and marked "Exhibit G," and is prayed to be taken as part of this petition.

The lands claimed by your petitioners are designated on said map or diagram by red lines, and are marked thereon as the "Yturbide claim." Your petitioners state, that the said lands are not covered by any other Mexican or Spanish grants, and at the date of the treaty of Guadalupe Hidalgo were a part of the public domain; and that no one else claims the same or any part thereof, by virtue of any right or title derived from the Mexican or Spanish governments. Your petitioners pray, therefore, that they may be confirmed in their title to the said lands so designated on the said map, and if it shall hereafter appear that the said lands, or any part thereof, have been granted to others by the Mexican or Spanish governments, prior to said location by your petitioners, in that event, they pray that they may be permitted to locate enough to make up the deficiency upon some other part of the public domain, in the State of California. They pray for such other and further relief as their case may require, and as may be consistent with equity and justice.

(Signed)
WALKER, CROCKETT, WELLS & BAKER,
Att'ys for Claimants.

Filed in office July 6th, 1852.
(Signed) GEO. FISHER,
Secretary.

Deposition of J. Y. Limantour.

SAN FRANCISCO, *Dec'r 24th*, 1852.

On this day, before Com'r Hiland Hall, came Joseph Y. Limantour, a witness in behalf of the claimants, executor, and heirs of Agustin Yturbide, petition No. 281, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimant the witness testified as follows:

My name is Joseph Yves Limantour, my age is thirty-nine years and upwards, and I reside in the city of Mexico.

I am acquainted with the family of the late Agustin Yturbide, who was formerly Emperor of Mexico; I knew five of his sons; they are Agustin, Angel, Salvador, Felipe, and another son by the *same* of Agustin, the oldest and youngest sons being both named

Agustin; they are all over twenty-one years of age. They were always reputed and understood to be the sons of the late emperor. I have known Salvador ever since the year 1845. He is now here present. In 1845 Salvador started from Mexico for California to locate a large tract of land which was claimed under a grant from the government of Mexico to the heirs of the said Emperor Iturbide. He started in company with General Inistra, who had been appointed governor of California, and with others, and I was one of the party. On our way to Acapulco to embark for California, we were stopped at Iguala by a revolutionary party against the Mexican government, and prevented from going further. The journey was abandoned in consequence. Salvador was appointed a commissary for Upper California, and he could not have prosecuted the journey unless accompanied by the general and the force under him.

A paper is now shown me purporting to be a letter from the Secretary of State of Mexico, directed to Juan G. Navarrete, dated 5th June, 1845. I am acquainted with the handwriting and signature of Cuevas, former Secretary of State of Mexico, and I believe his signature upon said letter to be genuine. Said paper is hereto attached and marked H. H. No. 1. Cuevas was Secretary of State of Mexico at the date of said letter.

A paper is also shown me purporting to be a letter from Peña y Peña, minister of foreign relations of Mexico, to Juan G. Navarrete, dated 28th of November, 1845. I am acquainted with the handwriting and signature of Peña y Peña, and believe his signature to said letter to be genuine. I know he was acting as minister of foreign relations at the date of said letter. Said paper is hereto annexed and marked H. H. No. 2.

LIMANTOUR.

Sworn and subscribed before me.

HILAND HALL,
Com'r.

Filed in office Dec'r 24th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Jose Abrego.

SAN FRANCISCO, *Dec'r 24th*, 1852.

On this day, before Com'r Hiland Hall, came José Abrego, a witness in behalf of the claimants, executor and heirs of Agustin Yturbide, petition No. 281, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimant, the witness testified as follows:

My name is José Abrego, my age is forty years, and I reside at Monterey, in California.

I am acquainted with the handwriting and signatures of Cuevas, formerly minister of foreign relations of Mexico, and of Peña y Peña, formerly holding the same office. Two papers which are attached to the deposition of Joseph Yves Limantour, this day taken in this case, are showed me, and I believe the signatures of said persons appearing respectively on said letters are their genuine signatures. I held the office of commissary in California, and had official communications from both of them.

In 1845, being at that time commissary in California, I received a communication from the minister of foreign relations of Mexico, informing me that Salvador Iturbide, having lands to attend to in California, had received the appointment of commissary, and requiring me, on his arrival, to deliver over the papers of the office to him. The communication was dated in the early part of the year 1845. The letter stated that he was coming here to select and take possession of land that had been granted to the heirs of his father by the Mexican congress. I left the letter in the government archives at Monterey.

JOSÉ ABREGO.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Dec'r 24th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Deposition of Wm. Waln.

SAN FRANCISCO, *Dec'r 24th*, 1852.

On this day, before Com'r Hiland Hall, came Wm. Waln, jr., a witness in behalf of the claimants, executor and heirs of Agustin Yturbide, petition No. 281, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimants, the witness testified as follows:

My name is William Waln, jr.; my age is thirty-six; and I reside in San Francisco.

I was a resident in Philadelphia two years ago. I knew the family of Madam Yturbide, reputed to be the widow of the late Emperor Yturbide, then and for some years previous residing in that city. She had living with her two daughters, Sabina and Josephine, reputed and believed to be the daughters of the late Emperor Yturbide. They were young women, and must have been

over twenty-one years of age. She had several sons, the eldest of whom I have heard called the prince.

WM. WALN, Jr.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Dec'r 24th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Exhibit A.

En el nombre de la Santisima Trinidad: Padre, Hijo y Espiritu Santo, tres personas distintas, y un solo Dios verdadero, de Jesu Cristo Miestro Señor, de su Madre, la Santisima Virgen Maria y de todos los Santos y Espiritus bienaventurados, bajo cuya proteccion y amparo quiero vivir y morir, Hago notorio á todos aquellos á quienes convenga, como yo Dn. Agustin di Yturbide estando sano y en mi entero acuerdo, seguro de la infalibilidad de la muerte, é inciesto de la hora y circunstancias en que pueda sobrevenirme, quiero manifestar mi ultima voluntad y testamento, en esta carta simple, sin las formalidades comunes del derecho, en uso del privilegio que gozamos los militares, para que todo cuanto en el, se cumpla exacta y prontamente por los albaceas testamentarios que adelante nombraré, como si fuese un instrumento estendido con todos los requisitos de estilo.

Declaro que soy Catolico, Apostolico, Romano, en cuya comunion deseo morir para salvacion de mi alura. Mi cuerpo quiero sea sepultado sin pompa alguna, aunque si mando se hagan sufragios para mi descauso eterno. Se pagarán las mandas forzosas, si aun hubiere custumbre de cumplirlas. Declaro que he sido casado in facie ecclesiae con Doña Maria Huarte, en cuyo matrimonio hemos habido y criado por hijos legitimos a Agustin, Sabina, Juana, Josefa, Angel, Jesus, Salvador y Felipe, y estando actualmente mi muger en ciuta, el hijo que naciere será nuestro. Declaro que soy duedas de varias cantidades de pesos en Mexico mi Patria, mas habiendo contraido las mas de estas duedas cuando estuve á la cabeza de la nacion, por su mismo decoro, y dijando al Loberano Congreso, á mi salidu del territorio el año procsimo pasado, una nota de todas ellas, creo que habra mandado pagarlas. Declaro que tengo cuentas pendientes con las casas de Gower y Sobrinos, y Mateo Fletcher, en Londres, las que liquidadas espero seran satisfichas por mis albaceas. Declaro que para la compra de la hacienda de Apeo, jurisdiccion de Maravateo, de que soy dueño, tome de la dote y legitima de mi muger, mas de treinta y dos mil pesos, lo que podrá saberse á puerto fijo por los libros y cuentas de la casa de mi padre politico Dn. Ysidoro Huarte, lo que declaro para que decha suena se saque con preferencia de la hacienda de la compañia, jurisdiccion de Chaleo, en la que introduje nuebles e hizo mejoras de que debe resultarme utilidad. Mis albaceas to-

maran cuentas á los administradores e ynterventores, y pagardo lo que se deba, el resto, si lo hubiere, se aplicará al cuerpo de mis bienes. Declaro que habiendo el gobierno provisional de Mexico, despues que hize su Yndependencia, concedidome en premio un millon de pesos, y veinte leguas cuadradas de tierra en Texas, de lo que hasta ahora nada he percibido, quiero que mis albaceas representur en este puerto mis derechos; y hagan todas las gestiones que crean convenientes para lograr el puntual cumplimiento de esta asignacion, la que aplicarán al cuerpo de mis bienes. Declaro que el quinto del caudal que quedare liquido, es mi voluntad se destine á mantener, hasta que tomen estado, las dos Huerfanas, Justa y Antonia, que quedaron en Mexico, al pago de varias pensiones y limosnas que alli mismo se han hecho por disposicion mia, al cumplimiento de varios comunicados que dijé al licenciado Don Juan Gomez Navarrete, al sostenimiento de mis sobrinos, y todo lo demas á beneficio de mi amado y venerado padre, el Señor Don Joaquin de Yturbide. Del resto de todos mis bienes, derechos y acciones, nombro é instituyo por herederos á mis ya mencionados hijos y al postumo que hubiere de nacer, para que por partes iguales disfruten lo que haya de tocarles, con la bendicion de dios y la mia. Nombro por tutor y curador ad litem de mis hijos menores á su madre y mi esposa, Doña Ana Maria Huarte, y por albaceas testamentarios ó ejecutores, de esta mi ultima voluntad al licenciado Don Juan Gomez Navarrete, á Don Nicolas Carillo, vecinos de Mexico, y al presbitero Don José Antonio Lopez, que esta en compañia, para que uno despues del otro ejerzan este encargo, en el orden que van nombrados, rogandoles el quieran aceptarlo. Les suplico tambien y encargo la consciencia, asi como á mi esposa, á fin de que mantengan á mis hijos en las casas de educacion, adonde los dejé, hasta que la reciban completa, y que en su tiempo pongan en otras semejantes, á los mas pequeños. Finalmente revoco y aunto cualquiera otra disposicion que antes de esta hubiere dado ó hecho, y declaro que esta es mi ultima voluntad, la que deseo tenga su entero complimiento, en fé de lo cual firmo esta á bordo del bergantin Spring, á doce de Julio de mil ochocientos veinte y cuatro.

(Firmado:) AGUSTIN DE YTURBIDE.

El original de esta carta testamento se halla en poder del ciudadano Antonio Gonzales de Paredes, alcalde de primera nominacion de la villa de Muestra Señora de Consolacion de Soto la Marina, Estado de Temaulipas.

La copia que antecede es igual á la que existe en mi poder como albacea del Sr. Don Agustin de Yturbide.

JOSÉ H. ELGUERO.

Mexico, Mayo 27 de 1852.

over twenty-one years of age. She had several sons, the eldest of whom I have heard called the prince.

WM. WALN, JR.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Dec'r 24th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Exhibit A.

En el nombre de la Santisima Trinidad: Padre, Hijo y Espiritu Santo, tres personas distintas, y un solo Dios verdadero, de Jesu Cristo Miestro Señor, de su Madre, la Santisima Virgen Maria y de todos los Santos y Espiritus bienaventurados, bajo cuya proteccion y amparo quiero vivir y morir, Hago notorio á todos aquellos á quienes convenga, como yo Dn. Agustin di Yturbide estando sano y en mi entero acuerdo, seguro de la infalibilidad de la muerte, é inciesto de la hora y circunstancias en que pueda sobrevenirme, quiero manifestar mi ultima voluntad y testamento, en esta carta simple, sin las formalidades comunes del derecho, en uso del privilegio que gozamos los militares, para que todo cuanto en el, se cumpla exacta y prontamente por los albaceas testamentarios que adelante nombraré, como si fuese un instrumento estendido con todos los requisitos de estilo.

Declaro que soy Catolico, Apostolico, Romano, en cuya comunion deseo morir para salvacion de mi alura. Mi cuerpo quiero sea sepultado sin pompa alguna, aunque si mando se hagan sufragios para mi descauso eterno. Se pagarán las mandas forzosas, si aun hubiere custumbre de cumplirlas. Declaro que he sido casado in facie ecclesiae con Doña Maria Huarte, en cuyo matrimonio hemos habido y criado por hijos legitimos a Agustin, Sabina, Juana, Josefa, Angel, Jesus, Salvador y Felipe, y estando actualmente mi muger en ciuta, el hijo que naciere será nuestro. Declaro que soy duedas de varias cantidades de pesos en Mexico mi Patria, mas habiendo contraido las mas de estas duedas cuando estuve á la cabeza de la nacion, por su mismo decoro, y dijando al Loberano Congreso, á mi salidu del territorio el año procsimo pasado, una nota de todas ellas, creo que habra mandado pagarlas. Declaro que tengo cuentas pendientes con las casas de Gower y Sobrinos, y Mateo Fletcher, en Londres, las que liquidadas espero seran satisfichas por mis albaceas. Declaro que para la compra de la hacienda de Apeo, jurisdiccion de Maravateo, de que soy dueño, tome de la dote y legitima de mi muger, mas de treinta y dos mil pesos, lo que podrá saberse á puerto fijo por los libros y cuentas de la casa de mi padre politico Dn. Ysidoro Huarte, lo que declaro para que decha suena se saque con preferencia de la hacienda de la compañia, jurisdiccion de Chaleo, en la que introduje nuebles e hizo mejoras de que debe resultarme utilidad. Mis albaceas to-

maran cuentas á los administradores e ynterventores, y pagardo lo que se deba, el resto, si lo hubiere, se aplicará al cuerpo de mis bienes. Declaro que habiendo el gobierno provisional de Mexico, despues que hize su Yndependencia, concedidome en premio un millon de pesos, y veinte leguas cuadradas de tierra en Texas, de lo que hasta ahora nada he percibido, quiero que mis albaceas representur en este puerto mis derechos; y hagan todas las gestiones que crean convenientes para lograr el puntual cumplimiento de esta asignacion, la que aplicarán al cuerpo de mis bienes. Declaro que el quinto del caudal que quedare liquido, es mi voluntad se destine á mantener, hasta que tomen estado, las dos Huerfanas, Justa y Antonia, que quedaron en Mexico, al pago de varias pensiones y limosnas que alli mismo se han hecho por disposicion mia, al cumplimiento de varios comunicados que dijé al licenciado Don Juan Gomez Navarrete, al sostenimiento de mis sobrinos, y todo lo demas á beneficio de mi amado y venerado padre, el Señor Don Joaquin de Yturbide. Del resto de todos mis bienes, derechos y acciones, nombro é instituyo por herederos á mis ya mencionados hijos y al postumo que hubiere de nacer, para que por partes iguales disfruten lo que haya de tocarles, con la bendicion de dios y la mia. Nombro por tutor y curador ad litem de mis hijos menores á su madre y mi esposa, Doña Ana Maria Huarte, y por albaceas testamentarios ó ejecutores, de esta mi ultima voluntad al licenciado Don Juan Gomez Navarrete, á Don Nicolas Carillo, vecinos de Mexico, y al presbitero Don José Antonio Lopez, que esta en compañia, para que uno despues del otro ejerzan este encargo, en el orden que van nombrados, rogandoles el quieran aceptarlo. Les suplico tambien y encargo la consciencia, asi como á mi esposa, á fin de que mantengan á mis hijos en las casas de educacion, adonde los dejé, hasta que la reciban completa, y que en su tiempo pongan en otras semejantes, á los mas pequeños. Finalmente revoco y aunto cualquiera otra disposicion que antes de esta hubiere dado ó hecho, y declaro que esta es mi ultima voluntad, la que deseo tenga su entero complimiento, en fé de lo cual firmo esta á bordo del bergantin Spring, á doce de Julio de mil ochocientos veinte y cuatro.

(Firmado:) AGUSTIN DE YTURBIDE.

El original de esta carta testamento se halla en poder del ciudadano Antonio Gonzales de Paredes, alcalde de primera nominacion de la villa de Muestra Señora de Consolacion de Soto la Marina, Estado de Temaulipas.

La copia que antecede es igual á la que existe en mi poder como albacea del Sr. Don Agustin de Yturbide.

JOSÉ H. ELGUERO.

Mexico, Mayo 27 de 1852.

LEGATION OF THE U. STATES AT MEXICO.

I certify that the signature of José H. Elguero to the foregoing document is genuine, the same having been acknowledged before me.

Mexico, May 27th, 1852.

R. P. LETCHER, *E. E., M. P.* [L. S.]

Filed in office July 6th, 1852.

(Signed) GEO. FISHER, *Sc'y.*

Exhibit B.

Translation.

In the name of the Most Holy Trinity, Father, Son, and Holy Ghost, three persons separate and one only true God; of Jesus Christ, our Lord; of his Most Holy Mother, the Virgin Mary; and of all the saints and spirits blessed, under whose protection and favor I desire to live and die, I hereby make known and publish to all to whom this may come, that I, Don Agustin de Yturbide, being healthy in body, and of sound mind, sure of the certainty of death, but uncertain as to the hour and circumstances under which it may overtake me, desire to make manifest my last will and testament in this plain instrument, without the usual formalities of law, by virtue of the privilege which we military men enjoy, in order that each and every disposition I may therein make may be strictly carried out, (executed,) and without delay, by the testamentary executors, whom I shall hereafter name, in the same manner as if this were an instrument drawn out with all the usual formalities of law.

I declare that I am a member of the Roman Catholic Apostolic Church, in whose communion I wish to die, for the salvation of my soul. My body I desire may be buried without any pomp, although I order that masses may be said for my eternal repose. These indispensable charges shall be paid for, even if it has been the custom to perform them as a matter of course.

I declare that I have been married "in facie ecclesiæ" with Doña Maria Huarte, by which marriage we have the following legitimate children: Agustin, Sabina, Juana, Josefa, Angel, Jesus, Salvador, and Felipe, and my wife being at this time "enceinte," the child that will be born will be ours.

I declare that I am indebted various sums of money in Mexico, my country; but having contracted the greater part of these debts when I was at the head of the nation, in the promotion of her glory, and having left in the hands of the sovereign Congress, on my departure from the territory the year last past, a list of all these debts, I believe they have been ordered to be paid.

I declare that I have accounts open with the houses of Gower & Nephews and Mathew Fletcher, of London, which, when liquidated, will be satisfied by my executors.

I declare that for the purchase of the hacienda of Apeo, in the jurisdiction of Maravatéo, of which I am the owner, I took from the dower and private fortune of my wife more than thirty-two thousand dollars, the precise amount of which can be ascertained by the books and accounts of the house of my father-in-law, Don Ysadoro Huarte; which declaration I make in order that said sum may be preferred and first drawn from the hacienda, and not be mixed up with my property.

I declare that I have held under lease the hacienda de la Campañia, in the jurisdiction of Chalco, in which I placed furniture and made improvements which must result profitably. My executors shall have a settlement with the administrators and intervenors, and that which is due being paid, the rest, if any, shall be carried to the bulk of my estate.

I declare that the provisional government of Mexico, after I achieved her independence, granted me in recompense a million of dollars and twenty leagues square of land in Texas, of which I have received nothing up to this time. I desire that my executors shall represent my rights in this respect, and shall take all the steps that they may deem proper to procure the punctual execution of this said grant, which they will add to the general fund of my succession, (the body of my property.)

I declare it to be my will that one-fifth of my liquidated property shall be set apart for the maintenance, until they are established, of the two orphan girls, Justa and Antonia, who shall remain in Mexico at the charge of the several pensions and settlements which were made by my disposition, for the execution of the various trusts which I left with the attorney, Don Juan Gomez Navarete, for the support of my nephews, and all the balance for the benefit of my beloved and venerated father, Don Joaquin de Yturbide.

Of the rest of my property, rights, and actions, I appoint and institute as heirs my before-mentioned children and the posthumous one yet to be born, in order that they may enjoy, share and share alike, the which may remain to be divided among them, with the blessing of God and my own.

I appoint as tutor and curator ad litem of my minor children, their mother, my wife, Dona Ana Maria Huarte; and for testamentary executors and administrators of this my last will, the attorney D. Juan Gomez Navarete, Don Nicolas Carrillo, citizens of Mexico, and the priest Don José Antonia Lopez, who is a member of a brotherhood, in order that one after the other may exercise this trust, in the order in which they are named, entreating them to be pleased to accept it.

I entreat them as well, and I appeal to their honor, as to my wife, to keep our children in the educational establishment where

I left them until their studies are completed; and that at the proper time they place the younger ones in similar establishments.

Finally, I revoke and annul whatever other will before this I may have given or made, and declare this to be my last will, that which I desire shall be strictly executed.

In testimony whereof, I sign these presents, on board the brig Spring, this 12th day of July, 1824.

(Signed) AGUSTIN DE YTURBIDE.

The original of this letter testamentary is in the possession of Antonio Gonzalez de Paredes, alcalde of first instance of the town of our Lady of Consolation of Soto la Marina, in the State of Tamaulipas.

The preceding copy is word for word with the one in my possession as executor of Don Agustin de Yturbide.

(Signed) JOSÉ H. ELGUERO.

Mexico, May 27, 1852.

{Legation of the United States at Mexico.}

LEGATION OF THE U. S. AT MEXICO.

I certify that the signature of José H. Elguero to the foregoing document is genuine, the same having been acknowledged before me.

Mexico, May 27, 1852.

(Signed) R. P. LETCHER,
E. E., M. P.

Filed in office July 6th, 1852.

(Signed) GEO. FISHER,
Secretary.

Exhibit C.

[Eagle.]

Sello Segundo—Cuatro Pesos.

Escrito.

Agustin de Yturbide ante V. como mas haya lugar en derecho, digo: que en disposicion testamentaria mi padre el Señor Don Agustin de Yturbide, nombro como Albacea primero, segundo y tercero, a los Senores Licenciado Don Juan Gomez de Navarrete, Don Nicolas Carrillo, vecino de esta capital, y Presbitero Don José Antonio Lopez: y que habiendo fallecido el primero de los mencionados Albaceas, y hecho el segundo renuncia verbal del cargo, queda la testamentaria sin representacion ninguna. A. V. hago formal declaracion de lo espuesto esperando, y pidiendole, se sirva nombra de Albacea dativo para la ejecucion de la ultima voluntad del Señor mi Padre, a quien tubiero a bien, y ademas digo: que los papeles de la testamentaria de mi Padre se hallan actualmente en

poder de la Señora Doña Luisa Cacho, vinda del firado Señor Don Juan Gomez de Navarrete. Juro lo necesario.

A. DE YTURBIDE.

Auto.

Mexico, Setiembre dies y nueve de mil ochocientos cincuenta.—Hagase saber el contenido de este escrito al Señor Don Nicolas Carrillo y con lo que diga dese cuenta. Lo proveyo el Licenciado Don Antonio Madrid, jues de lo civil de esta ciudad, y firmo. Doy fé: Madrid.

JERMIN VILLA,
Esem'o.

Notoriedad.

En veinte del mismo presente el Señor Don Nicolas Carrillo, le hizo saber el escrito anterior y entendido dijo: que en efecto ha renunciado el albaceargo del Señor Don Agustin de Yturbide, por que sus enfermedades no le permiten desempeñarlo como corresponde, por lo que si fuere necesario ratifica, en forma la espresada renuncia, y firmo. Doy fé: N. Carrillo.

JERMIN VILLA.

Auto.

Mexico, Setiembre veintierno de mil ochocientos cincuenta.—Se admito al Señor Don Nicolas Carrillo, la renuncia que hace del cargo de albacea del Señor Don Agustin de Yturbide, y en consecuencia se le nombra en clase de dativo al Señor Licenciado Don Hilario Elguero, a quien se le hara saber para que aceptando, jurando y afianzando el cargo, se le desierna en forma. Lo proveyo el Señor juez y firmo. Doy fé: Madrid.

JERMIN VILLA.

Acceptacion Juramento y Fianza.

En la ciudad de Mexico a veintiseis de Setiembre de mil ochocientos cincuenta, presente el Señor Licenciado Don Hilario Elguero, le hize saber el auto anterior y entendido, dijo: lo oye, acepta el cargo de albacea—

Sello Cuartro—Un Real.

{ Para los Anos [Eagle] de 1852 y 1853. }

—dativo del Señor Don Agustin de Yturbide, y jura en forma de derecho que procedera a desempeñarlo fiel y legalmente, llebando cuenta y razon de todos los bienes que entrar en su poder para rendirla con pago tan luego como se le mando por juez competento, practicando ademas todos los actos y diligencias propias de dicho cargo, sin que por su negligencia le venga perjuicio a la testamen-

taria, pues si le acueciere se lo remplazara con sus bienes; y a que asi lo cumplira produce por su fiador al Señor Don Jn. Ramon Malo, de esta vecindad, que es presente, y a quien doy fé conozco, el que cierto y sabedor de sus derechos y de lo que en el casa aventura, otorga: que sale y fia al espresado Señor Elguero, en tal manera que cumplira enteramente con lo que tiene ofrecido, y en su defreto lo hara el Señor Otorgante como su fiador, principal dendor, liso y llano pagador que se constituye, haciendo como hace de causa, denda, y negocio ageno suyo propio, sin que contra el Señor Elguero, ni sus bienes sea necesario hacer ni que se haya agencia, diligencia, ni esension, de fuero ni de derecho cuyo beneficio espresamento renuncia con las leyes que del caso tratan. A cuyo complimiento, ambos principal y fiador, se obligan con sus bienes habidos y por haber con las sumiciones y renunciaciones de leyes necesarias; y asi lo otorgaron y firmaron siendo testigos Don Mariano Cabeza de Vaca, Don Miguel Aristegin, y Don Juan Villa, de esta vecindad: doy fé.

JOSÉ H. EGUERO,
JOSÉ R. MALO,
JERMIN VILLA.

Discernim'to.

En la ciudad de Mexico a veinte ocho de Setiembre de mil ochocientos cincuenta. El Señor Don Antonio Madrid, juez de letras de lo civil en esta ciudad, en vista de la aceptacion, juramento y fianza que anteceden, dijo; que en nombre de los supremos padres de la nacion discernia y discernio al Señor Licenciado Don Hilario Elguero, el cargo de Albacea, dativo del Señor Don Agustin de Yturbide, y un consecuencia le daba, y dio, el poder y facultad que por derecho se requiere y es necesario, para que recoja los bienes pertenecientes a la testamentaria, llevando cuenta y razon de los que entren en su poder para vendirla con pajo luego que se le mande haciendo cuentas gestiones, actos y diligencias competen a los de su clase, y defendiendola.

Sello Cuartro—Un Real.

{Anos de (Eagle) 1852 y 1853.}

En todos los pleitos, causas y negocios civiles ó criminales que tenga, ó tubiere, como actora, ó res, para lo que comparezca en los tribunales, y juzgado que convenza, en los que haga pedimentos, requirimientos, citaciones, protestas, alegaciones, contradicciones, ejecuciones, embargos, depositos, y desembargos de bienes, venta y remate de ellos, de que tome posecion; presente testigos y documentos que saque de quien los tutiere, gane todo genero de despachos; riga autos y sentencias interlocutorias y difinitivas; consienta lo favorable, y de lo contrario apele y suplique, siga su grado

ó se desistu, recuse, jure, y se aparte; y finalmento haga todos los demas *demas* actos, pedimentos, agencias, y diligencias, que importen, pues para ello lo anecso incidente y dependiente le hace este descernimiento, con libre, franca, general administracion, y facultad de enjuiciar, jurar, y dar poderes bajo su responsibilidad, para cuya mayor validacion y firmiza interpuso su autoridad y judicial decreto, en cuanto ha lugar por derecho; y mando se le den al Señor Albacea, los testimonios que pida de este discernimiento para el uso y ejercicio de su cargo. Y por este auto asi lo proveyo y firmo; doy fé.

ANTONIO MADRID,
JERMIN VILLA.

Escrito.

El Licencio José Hilario Elguero Albacea, dativo del Eccelentisimo, Señor Don Agustin de Yturbide, como lo acredita el espediente que acompaño en tres fojas utiles ante V. como mas haya lugar en derecho, previas las protestas legales, digo; que para el desempeño de un negocio que la testamentaria de mi cargo tiene fuera de la republica, necesito testimonio juridica de dicho adjunto espediente, por lo q. A. V. suplico se sirva mandar que se me espida por el autuario de modo que haya fé comproban en la forma legal. Es justicia, juro lo necesario, &a.

Lic. JOSÉ H. ELGUERO.

Auto.

Mexico, Mayo veintidos de mil ochocientos cincuenta y dos.—Como lo pide, lo proveyo el Señor juez y firmo; doy fé.

MADRID,
JERMIN VILLA.

Concuerda el espediente inserto con su original a que me remito de donde se saco este traslado a la letra fielmente corregido en conformidad de lo mandado en el auto inserto; y va en cuatro fojas, la primera y esta del sello segundo corriente y las demas del cuarto, en la ciudad de Mexico, a veintidos de Mayo de mil ochocientos cincuenta y dos siendo testigos Don Mariano Cabeza de Vaca, Don Miguel Aristegue, y Don Juan Nepo. Villa, de esta vecindad; doy fé. Entre reng'o y dependiente. Vale.

J. V.
JERMIN VILLA.

Domos fé que Don Jermin Villa, por quien aparece autorizado el testimonio que antecede, es escribano del numero de esta capital fiel, legal y de toda confianza por lo que a todos sus senujantes se les ha dado y da fé y credito judicial y extrajudicialmente. Y para que conste ponemos la presente sellado con el de muestro na-

cional colegio en la ciudad de Mexico a veintidos de Mayo de mil ochocientos cuarenta y dos.

(Flourishes.)

MARO. CABEZA DE VACA,
MIGUEL ARISTEGUI,
JUAN NEPO. CARRION.

[L. S.]

El infrascrito oficial mayor 1o. del ministerio de relaciones interiores y esteriores certifica. Ser autenticas las firmas que anteceden de los escribanos Cabeza de Vaca, Aristegui y Carrion, a las que se da entera fé y credito.

[L. S.]

Mexico, Mayo 26 de 1852.

JOSÉ MARIA ORTIZ MONASTERIO.

Dros. 4 ps.

LEGATION OF THE UNITED STATES.

I, R. P. Letcher, envoy extra. and minister pleno. of the United States of America, near the government of Mexico, do hereby certify that the signature of José Maria Ortiz Monasterio, attached to the preceding document, is in his own proper handwriting, to me well known; that he was at the time of signing the same, and is now, chief clerk of the department of state for foreign affairs of the Mexican government, and by law authorized and required to certify to public documents; and all acts signed by him, as such, are deserving of full faith and credit.

In testimony whereof, I hereunto subscribe my name and affix the seal of this legation, at Mexico, this 26th day of May, A. D. 1852.

[L. S.]

R. P. LETCHER.

Filed in office July 6th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Exhibit D.—Translation.

(The Application.)

I, Agustin de Yturbide, before you, the authority prescribed by the laws, declare:

That, in his last will, my father, Don Agustin de Yturbide, appointed as his first, second and third executors, the licentiate Don Juan Gomez de Navarete, Don Nicolas Carrillo, citizens of this capital, and the priest Don José Antonio Lopez; and that the first and third of the above mentioned executors having died, and the second having made a verbal renunciation of the trust, the succession remained without any representation.

I make a formal declaration of the aforesaid facts to you, hoping and asking that you will be pleased to appoint whomsoever you may think proper as dative executor of the last will of my father;

and I declare furthermore, that the papers of the succession of my father are now actually in the possession of Doña Luisa Cache, widow of the defunct Señor Don Juan Gomez de Navarete. To which I take the prescribed oath.

(Signed) A. DE YTURBIDE.

(The Decree.)

Mexico, Sept. 19, 1850. "Let Don Nicolas Carrillo be made acquainted with the contents of the aforesaid application, and report his answer to me."

This was the decree of the licentiate Don Antonio Madrid, civil judge of this city, and subscribed by him. I certify: "Madrid."

FERMIN VILLA.

On the 20th of the same month, the Señor Don Nicolas Carrillo comes before me, and having made him acquainted with the foregoing application, and having heard it, he declared:

That, in fact, he had renounced the executorship of the estate of Señor Don Agustin Yturbide, as his ill health would not permit him to attend in a proper manner to the duties of the same. On which account, and by such act as may be necessary, he ratifies with all formality the aforesaid renunciation, and subscribes the same. I certify: N. Carrillo.

FERMIN VILLA.

(The Decree.)

Mexico, 25 Sept., 1850. "The renunciation made by Señor Don Nicolas Carrillo, of the executorship of the estate of Señor Don Agustin de Yturbide, is accepted, and in consequence, the licentiate Don Hilario Elquero is appointed, under the style of dative executor, who must be notified of the same, so that having accepted, taken his oath and given security, it may be formally decreed to him." So ordered the judge and subscribed the same. I certify: Madrid.

FERMIN VILLA.

(The Acceptance, Oath and Security.)

In the city of Mexico, 26 Sept., 1850, came the said Señor Licentiate Don Hilario Elquero. I made him acquainted with the foregoing decree, and having heard it, he declared that he heard and accepted the trust of dative executor of Señor Don Agustin de Yturbide, and took the legal oath to proceed to the execution of his duties with fidelity and according to law; that he would give an account and satisfaction of all the property that shall come into his possession, in order to surrender it, with the payment of all moneys, as soon as he is ordered to do so by a competent judge; that he would, moreover, take all the steps and proceeding appropriate to said trust, without allowing any detriment to result to

the succession by his negligence; and, moreover, if such should occur, that he would make it good out of his own property; and for the faithful performance of the above, he offers Don José Ramon Malo, of this city, who is present, as his security, and whom I certify to be known to me, and who being advised and acquainted with his rights, and what he risks in this case, binds himself as follows: (otorga) "That he supports and stands as security for the aforesaid Señor Elquero; that he will in every respect comply with the duties of the trust he has accepted, and in his failure to do so, that the said bondsman will execute them, as his security, and binds himself so to do, as the principal debtor, and liable to the whole payment of any liabilities, making, as he does intentionally, the liabilities and debt of another his own, without its being necessary to proceed against Señor Elquero nor his property, nor to take any steps, proceedings, or execution of equity or law, the benefit of which he expressly renounces, as well as of all the laws that relate to this subject.

For the performance of which, both parties, principal and surety, bind themselves with the property which they now have or may have, and with the submission and renunciation of the necessary laws. Thus they bound themselves, and subscribed the same before the witnesses, Don Miguel Aristegue and Don Juan Villa, of this city. I certify: José H. Elquero, José R. Malo.

FERMIN VILLA.

(The Appointment.)

In the city of Mexico, Sept. 28, 1850, Señor Don Antonio Madrid, a learned civil judge of this city, in view of the acceptance, oath, and surety preceding, decreed: "That in the name of the supreme power of the nation, he decreed and granted to the Señor licentiate Don Hilario Elquero, the trust of dative executor of the Señor Don Agustin de Yturbide, and in consequence thereof he gave and granted him the power and authority that by law is required or may be necessary, in order to collect the property belonging to the succession, keeping an inventory of what shall come into his possession, in order to surrender it, with any moneys, as soon as he is ordered to do so; that he will take whatever action, steps and proceedings appertain to persons holding similar trusts, and defending the rights of the succession in all the causes, lawsuits, and civil and criminal business that it now has or may have, either as plaintiff or defendant, that it may appear before the tribunals and courts, may be proper before those where petitions are made, protests, charges, answers, executions, injunctions, deposits, releases of property, private or public sale of any which may come into his possession; he may produce witnesses and documents, which he may obtain from those who have them; (may have every facility in his suits;) may hear both interlocutory and

final judgments; he may agree to what is decided in his favor, and from an adverse decision he may appeal and petition; he may pursue his proceedings or stop them; (he may challenge, reject and set aside;) and finally, may do all other acts, make petitions, and take such steps and proceedings as may be necessary, as this decree confers upon him the power to do these things and everything else connected therewith or dependent upon them, with a free and liberal administration of his trust and the power of entering suits, taking oaths, and giving powers of attorney upon his own responsibility. For the greater validity and permanence, the said judge interposed his authority and judicial decree, as prescribed by law, and he orders that the executor be handed the evidence of this appointment and decree which he asks for, for the service of his trust, and by this decree he so adjudged and subscribed the same. I certify: Antonio Madrid.

FERMIN VILLA.

(Application.)

I, the licentiate José Hilario Elquero, dative executor of his excellency Señor Don Agustin de Yturbide, as is established by the accompanying espediente, contained in three leaves, before you as prescribed by the laws, the legal preliminary protests being made, declare, that for the accomplishment of a certain business that the succession under my charge has out of the republic, I have need of the judicial evidence of said accompanying espediente, for which reason I pray that you will be pleased to give orders that the clerk furnish it to me, duly certified to and prepared in conformity with all legal formalities. It is justice. I take the prescribed oath, &c.

Licenciado JOSÉ H. ELQUERO.

(The Decree.)

MEXICO, *May* 22, 1852.

According to the above application was the decree of the judge, and subscribed by him. I certify: Madrid.

FERMIN VILLA.

The expediente herein inserted agrees with the original, with which I have compared it, and from which this was taken faithfully to the letter, corrected, in conformity with the order thereinbefore inserted, and is issued on four leaves, the first and this with the second seal of the present, (biennial '52, '53,) and the others with the fourth. In the city of Mexico, the 22d of May, 1852, before the witnesses, Don Mariano Cabeza de Vaca, Don Miguel Aristegue, and Don Juan Nep. Villa, of this city. I certify.

FERMIN VILLA.

We certify that Don Fermin Villa, by whom appears authenticated the preceding record, is a notary of the number of this capi-

tal, legal, duly commissioned, and worthy of all confidence, wherefore to all of his acts of a similar character there has been and is given full faith and credit, both judicially and extrajudicially.

And in order that this may so appear, we subscribe this certificate, with the seal of our national college, in the city of Mexico, the 22d day of May, 1852.

MARIANO CABEZA DE VACA,
JUAN NEP. CARRON,
MIGUEL ARISTEGUE.

[SEAL.]

The undersigned, chief clerk of the bureau of the minister of foreign and domestic relations, certify that the preceding signatures of the notaries Cabeza de Vaca, Aristegue, and Carrion are genuine, and that full faith and credit are given them.

Mexico, May 26, 1852.

JOSÉ MARIA ORTEZ MONASTERIO.

LEGATION OF THE U. STATES AT MEXICO.

I, R. P. Letcher, env'y extr'y and minister plen'y at Mexico, do hereby certify that the signature of José Maria Ortez Monasterio, attached to the preceding document, is in his own proper handwriting, to me well known; that he was at the time of signing the same and is now chief clerk of the department of state for foreign affairs of the Mexican gov't, &c.

Mexico, 26 May, 1852.

(Signed) R. P. LETCHER.

Filed in office July 6th, 1852.

(Signed) GEO. FISHER, *Secretary.*

Exhibit E.

LEGATION OF THE U. STATES OF AMERICA AT MEXICO.

I, Robert P. Letcher, envoy extr'y and minister plen'y of the United States of America, near the government of Mexico, do hereby certify that the signatures to the following documents, signed by O. Monasterio, are in his own proper handwriting, to me well known, and that he was at the time of signing the same and is at present chief clerk of the department of foreign affairs of the Mexican government, and by law authorized and required to certify to copies of public documents, and all acts signed by him, as such, are deserving of full faith and credit.

In testimony whereof, I hereunto subscribe my name, and affix the seal of my office, at the city of Mexico, this 20th day of November, A. D. 1851.

[L. S.]

R. P. LETCHER.

Secretaria de Hacienda:

EXMO. SR.: El E. Sr. Presidente interino de los Estados Unidos

Americanos se ha servido dirijirme el decreto que segue. El Presidente interino de los Estados Unidos Mexicanos, á los habitantes de la republica, sabed que el Congreso general ha decretado lo siguiente:

Arto. 1o. El millon de pesos concedido al General D. Agustin de Yturbide pr. la junta provisional gubernativa el veintiuno de Febrero de mil ochocientos veintidos, en premio del sublime merito que contrajo haciendo la independencia de su Patria, se entregará á su Albasea y herederos en dinero cuando y como las circunstancias del Erario lo permitan.

2o. Las veinte leguas cuadradas de que se habla en el mismo decreto, y que el consiguaba en Tejas, se daran al Albasea y herederos en los Territorios de Nuevo Mexico, ó de la Alta y Bajá California, sino pudiere ser en Tejas, en los terminos en que el gobierno acuerde con los interesados.

AGUSTIN PERES DE LEBRIJA,
Diputado Presidente.
ANGEL GARCIA QUINTANAR,
Senador Vice Presidente.
PEDRO DE AHUMADA,
Diputado S'rio.
JOSÉ ANTONIO QUINTERO,
Senador Secretario.

Por tanto, mando se imprima, publique, circule y que se le dé el debido cumplimiento.

Palacio del gobo. federal en Mexico, á 18 de Abril, de 1835.

A. D. JOSÉ ANTONIO BLASCO.

MIGUEL BARRAGAN.

Comunicolo á esa secretaria para su inteligencia y fines consiguientes. Dios y libertad. Mexico, Abril 18, de 1835.

BLASCO,
A la Secretaria de Relaciones.

Es copia. Mexico, 30 de Agosto, de 1850.

O. MONASTERIO.

El decreto de 21 de Febrero, de 1822, que secita es como sigue.

La soberana junta provisional gubernativa, teniendo en consideracion el herico valor y acendrado patriotismo con que el generalisimo, presidente de la regencia D. Agustin de Yturbide para libertar a la America del Septentrion, su patria de la dominacion Espanola que la oprimia, proclamo la independencia en Yguala el 24 de Febrero, de 821, esponiendo su persona y vida, la suerte de sus hijos, la de su muejer, la de su anciano padre, y la de sus parientes y allegados la juro el 2 de Marzo del mismo ano propagando la opinion en todo el reino bajo las medidas mas proporcionadas para el logro de tan grande y sublime empresa el sacrificio que hizo de sus bienes y fortuna; las privaciones que sufrio; los imuen-

sos riesgos y peligros que le fue preciso superar, entre ellos la persecucion del gobierno Espanol que por medio de la fuerza, la seduccion, la intriga y los premios ataco su existencia, y por medio de la difamacion ultrajo su buen nombre; las acertadas medidas, asi politicas como militares, con que haciendose el centro de la unidad, de la fuerza armada y moral de las provincias derijio ambas con tanto acierto, que el paso que hizo respetables las tres garantias desalojo a las tropas Espanolas con fuerzas inferiores en las ciudades de Valladolid y Queretaro y despues de las de puebla y Mexico; el valor con que supo en todas las acciones que se le presentaron vencer a los enemigos economisando la sangre por una y otra parte en tanto estremo, que por la de los Mexicanos no llegan a doscientos hombres los muertos; gobernando el ejercito con el mayor moderacion y prudencia, que ninguno de los pueblos por donde transito tuvo de que quejarse, y antes bien todos bendecian su exacta disciplina y valor; la discreta economia de sus gastos la consideracion que le merecieron los pueblos, a quienes liberto de las contribuciones rainosas que los afligian, y modero otras; la empenosa actividad con que supo reanimar el orden haciendo respectar a las autoridades y los derechos de los ciudadanos, los de su libertad individual y los de sus propiedades; la provision y tino con que celebro el tratado de Cordova, removiendo con este deticado manejo politico multitud de obstaculos, que aunque al fin, se hubieran vencido seria despues de nuetros gastos y danos tal vez irreparables; el desinteres con que en todo se ha manejado procurando solo el bien de su patria, a la que puso en el goce completo de su libertad y derechos sin hacer otra cosa mas sino lo que la misma nacion quiso ejecutase en su mayor obsequio y servicio, llegando su modestin hasta el estremo de rehusar con la mas viva instancia el establecimiento de su casa luego que entendio se trataba de ejecutarlo, como consta de la reverente gestion que hizo el dio 1o de Febrero del presente ano, que recomendara en todos los tiempos su integridad y exactitud. Y puesto que no habido nacion alguna que no haya correspondido a los autores de su libertad premiandolos condiguamente con honores, empleos y bienes, la Mexicana siempre generosa y magnanima representada pr. esta junta soberana provisional gubernativa, habiendo cumplido ya en cuanto le fue posible con darle los honores y empleos de q. considero digno al autor de su libertad, al fundador del ymperio y al vindicador de sus imprescriptibles dros, teniendo en consideracion que ademas es justo proporcionar la suerte de su casa y la de sus hijos, y a que su desvelo tiene dedicado al bien g'ral de la nacion y a que su prodigioso esfuerzo, liberal modo de pensar y puro patriotismo debe la misma nacion el reunirse el dia 24 del presente para fijar y consolidar su gobierno, para perpetuar la memoria de dia tan glorioso y de un hecho que va a verificar en el seno de la paz y tranquilidad lo que admira la generacion presente, y ensaloaran las venideras como tambien que tantas empresas y prodigiosas

se lograsen en el corto espacio de siete meses, sin necesidad de auxilio estraño, se ha servido decretar y decreta. Lo primero: Que para establecer la casa del Generalisimo Almirante, Presidente de la Regencia Dn. Agustin de Yturbide se le apliquen en pleno dominio y propiedad las fincas rusticas y urbanas, bienes, derechos y accioner del extinguedo Irál. de la Ynquisicion, separandose previamente los pertenecientes á la cofradra de S. Pedro martir, obras pias que evan á su cargo, y capitales, que reconocen á deposito irregular, y un terreno de veinte leguas cuadradas en la provincia de Tejas, en el lugar que se estime mas oportuno, á reserva de lo que el supremo congreso en uso de sus facultades pueda añadir mijoradas las circunstancias del Erario. Lo segundo: Que la regencia á quien se le da toda la autoridad conveniente para el caso, proceda a otorgar los instrumentos necesarios de cesion de los referidos bienes de la ynquisicion, y procede a separar los de la cofradia de S. Pedro martir, obras pias, reconocimientos a deposito irregular, y designe el cuadrado de las veinte leguas y que si restablecidas las rentas del ymperio, este quisiere recoger los bienes entregañdo el millon en numerario, podra hacerlo como tambien el generalisimo pedirlo, y se accedera a la solicitud. Lo tercero: Que respuesto a estar ellos hipotecados a los contribuyentes del prestamo voluntario, se le faculte del mismo modo para que subroque la hipoteca con otros nacionales, no obstante de ser suficientes para responder al pajo los del fondo de las misiones de Californias y la mitad de las aleabalas, pues la fé publica exige se sostenga lo contratado con toda esta formalidad. Tendra lo entendido la regencia del Ymperio, y dispondra lo necesario para su cumplimiento, y que se imprima, publique y cercule. Mexico, 22 de Febrero, de 1822, segundo de la independencia de este Ymperio.

Es copia Mexico, 30 de Ag'to, de 1850.

O. MONASTERIO.

E. S. Desde el dia 20 de Feb'o, de 1841, se me comunico por el ministerio de lo interior que el E. S. presidente se habia servido deferir a la solicitud que hice como Albacea del E. S. D. Agustin Yturbide y de acuerdo con la Sra. su viuda, para que se consignasen en la Alta California las veinte leguas cuadradas de tierra que el D'to de 18 de Abril de 1833, concedio a la familia de aquel en premio de haber hecho la yndependencia de su patria. Lo participe a la Sra. pa. q. de acuerdo con sus hijos me indicase el modo con q. se habia de proceder a la ejecucion, pero no habiendose proporcionado persona de confianza que fuese a escojer, señalar y medir las tierras, ni el dinero necesario, nada le habia podido hacer hasta ahora que el S'r D. Salvador uno de los hijos, que ha cumplido veinte y cinco años, se ha resulto a marchar a aquel departamento, y recibir por si y a nombre de la Sra. su madre y hermanos las tierras, señalar sus limites, y practicar todo lo necessario pa. q. la familia pueda disfrutar de este beneficio.

En tal concepto, y para que pueda aprovechar la ocasion de ir en compañia y disfratar la proteccion del S'r Yniestra que debe salir de un dia a otro, he de merecer a V. E. se sirva dar cuenta al E. S. presidente interino con esta solicitud, a fin de que se digne mandar espedir las ordenes convenientes pa. que tenga efecto la entrega de las tierras y al mismo tiempo se auxilie al S'r D. Salvador con dos mil pesos para gastos del viage por cuenta del millon de que habla la ley citada sirvase V. E. aceptar a la vez las protestas de mi consideracion y aprecio. Dios y libertad. Mexico, Mayo 19 de 1845.

JUAN GOMEZ DE NAVARRETE.

E. S. A'tro de Relaciones y Gobernacion, D. Luis Gonzaja Cuevas.

Es copia. Mejico, Agosto 29 de 1850.

O. MONASTERIO.

Ministerio de Relaciones Exteriores,
Gobernacion y Policia.

E. S. Debiendo pasar á ese departamento Dn. Salvador de Yturbide, hijo del E. S. Dn. Agustin de Yturbide, á recibir por si y á nombre de la ex'ma s'ra su madre y hermanos, las veinte leguas cuadradas de tierra que el decreto, de 18 de Abril, de *de* 1835, concedio á la familia del 1o en premio de haber hecho la yndependencia de su patria, el C. s'or presidente interino se ha servido disponer que V. E. haga se proceda á la medida de las referidas veinte leguas cuadradas en los terrenos baldios del territorio de su mando que convengan al citado D. Salvador, y de cuenta de haberse verificado para la resolucion conveniente. Digolo á V. E. para su cumplimiento y le rietero las seguridades de mi particular aprecio. Dios y libertad *y libertad*. Mexico, Junio 5, de 1845.

CUEVAS.

E. S. Gobernador
Del Departamento de Californias.

Es copia. Mexico, 29 de Agosto, de 1850.

O. MONASTERIO.

Gobierno del Departamento de California:

Ex'mo S'or: Tan pronto como se presente á este departamento Dn. Salvador Yturbide á recibir por si y á nombre de la ex'ma s'ra su madre y hermanos, las veinte legus cuadradas de tierra que el decreto, de 18 de Abril, de 1835, concedio a la familia de D. Agustin de Yturdide en premio de haber hecho la yndependencia de la patria, este gobierno dispondra se proceda a la medida de las referidas veinte leguas cuadradas en los terrenos baldios de este departamento que convenga al citado D. Salvador y de haberse asi verificado dare cuenta al ministerio del cargo de V. E. para conocimiento del supremo gobierno. Lo que tengo el honor de decir a V. E. en contestacion a su nota

de 5 de Junio ultimo, suplicandole lo haga asi presente al ex'mo s'or presidente, a quien como a V. E. reitero las seguridades de mi respeto. Dios y libertad. Angeles, Octubre 20, de 1845.

PIO PICO,
Ex'mo S'or Miñistro de Relaciones Exteriores Gobernacion y Policia.

Es copia. Mexico, 29 de Agosto, de 1850.

O. MONASTERIO.

El infrascrito Ministro de Relaciones Interiores y Exteriores certifica:

Que habiendose buscado con la escrupulosidad debida en el archivo de esta secretaria la solicitud que el Señor D. Juan Gomez Navarrete hizo al ex'mo señor presidente de la republica en los años de 840 ó '41, pidiendo los terrenos cedidos en la Alta California a la familia del Ex'mo Señor D. Agustin de Yturbide, y la comunicacion dirigida al S'or Navarrete participandole que el ex'mo s'or presidente se habir servido deferir a su solicitud no se han encontrado, por que sin duda fueron estraidos el año de 1847, entre otros muchos papeles, cuando fué ocupado el palacio por las fuerzas Norte Americanas. Mexico, Marzo 31, de 1852.

Por ocupacion del s'or ministro,

JOSÉ MARIA ORTIZ MONASTERIO.

LEGATION OF THE U. STATES OF AMERICA AT MEXICO.

I, Robert P. Letcher, envoy extro. and minister pl'no of the U. States of America, near the government of Mexico, do hereby certify, that the signature of José Maria Ortiz Monasterio, attached to the preceding document, is in his own handwriting, to me well known; that he was at the time of signing the same, and is now, chief clerk of the department of state for foreign affairs of the Mexican government, and by law authorized and required to certify to public documents, and all acts signed by him, as such, are deserving of full faith and credit.

In testimony whereof, I hereunto sign my name, and affix the [L. S.] seal of my office, at Mexico, this 2d day of April, A. D. 1852.

R. P. LETCHER.

Filed in office July 6th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

H. H. No. 1.

Document H. H. No. 1, *annexed to the Depo. of J. Y. Limantour.*

Ministerio de Relaciones Exteriores Gobernacion y Policia:

Defiriendo el E. S. presidente interino a lo solicitado por V. S. en

su oficio de 19 del pp'do se ha servido disponer se libren las ordenes convenientes a los ex'mos s'res gobernador del departamento de Californias y ministro de hacienda, como se verifica hoy, para que el primero haga se midan las veinte leguas cuadradas de tierra concedidas a la familia del E. S. D. Agustin de Yturbide por el decreto de 18 de Abril de '35, en los baldios de d'ho departamento que se señalen por D. Salvador de Yturbide como heredero y representante de la misma familia, y al segundo para que mande entregar al referido D. Salvador para gastos de viage, dos mil pesos en cuenta del millon decretado tambien a fabor de la misma familia. Lo que comunico a V. S. para su conocimiento, y le ofreseo las seguridades de mi untero aprecio.

Dios y libertad. Mejico, Junio 5, de 1845.

CUEVAS.

S'r Senador y Ministro de la Suprema Corte de Justicia D. JUAN G. NAVARRETE.

Filed in office Dec. 24th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

H. H. No. 2.

Document H. H. No. 2, annexed to the Depo. of J. Y. Limantour.

Ministerio de Relaciones Exteriores Gobernacion y Policia:

EX'MO SEÑOR: El E. S. gobernador del departam'to de Californias con f'ha 20 de Octubre me dice lo que segue:

"E. S. Tan pronto como se presente a este departamento D. Salvador del Yturbide a recibir por si y a nombre de la ex'ma s'ra su madre y hermanos, las veinte leguas cuadradas de tierra q. el decreto de 18 de Abril de 1835, concedio a la familia de D. Agustin de Yturbide en premio de haber hecho la independencia de la patria, este gobierno dispondra se proceda a la medida de las referidas veinte leguas cuadradas en los terrenos valdios de este departamento que convenga al citado D. Salvador, y de haberse asi verificado dare cuenta al ministerio del cargo de V. E. para conocim'to del supremo gobierno. Lo que tengo el honor de decir a V. E. en contestacion a su nota de 5 de Junio ultimo, suplicandole lo haga asi presente al E. señor presidente a quien como a V. E. reitero las seguridades de mis respetos."

Y tengo la houra de insertarlo a V. E. como resultado de su comunicacion soble el particular, reiterandole las seguridades de mi distinguido aprecio.

Dios y libertad. Mexico, Noviembre 28, de 1845.

PEÑA Y PEÑA.

E. S'r Senador y Magistrado de la Suprema Corte de Justicia D. JUAN G. NAVARRETE.

Filed in office Dec. 24th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Exhibit F.—Translation.

OFFICE OF SECRETARY OF THE TREASURY.

To the SECRETARY OF RELATIONS:

His excellency the provisional president of the United States of Mexico has been pleased to communicate to me the following decree:

The provisional president of the United States of Mexico to the inhabitants of the republic:

Know ye, that the general congress has decreed as follows:

Article 1. The one million of dollars granted to General D. Agustin de Yturbide by the governmental provisional congress (junta) the 25th day of February, 1822, in recompense for his high merit in having achieved the independence of his country, will be paid to his executor and heirs in cash when and as the circumstances of the exchequer will permit.

Art. 2. The twenty leagues square mentioned in said decree, and which were therein assigned in Texas, will be given to his heirs and executor in the territories of New Mexico or in Upper and Lower California, (if it cannot be had in Texas,) on such terms as the government may agree upon with the parties interested.

AUGUSTIN PEREZ DE LEBUJA,
President of the Deputies.
ANGEL GARCIA QUINTINAR,
Vice President of the Senate.
PEDRO DE ALRUMADA,
Secretary of House of Deputies.
JOSÉ ANTONIO QUINTERO,
Secretary of the Senate.

Wherefore I order that this decree be printed, published, circulated, and that it be properly complied with.

Palace of the federal government, at Mexico, this 18th day of April, 1835.

A. D. JOSÉ ANTONIO BLASCO.

I communicate this decree to your office for your information, and in furtherance of the ends proposed by it.

God and liberty. April 18, 1835.

BLASCO.

To MIGUEL BARRAGAN.

I certify that the above is a true copy.

Mexico, August 30, 1850.

O. MONASTERIO.

The decree of the 21 of February, above referred to, is as follows:

The sovereign governmental provisional congress holding in

proper consideration the heroic valor and pure patriotism which the Admiral Generallisimo, President of the Regency, D. Augustin de Yturbide, in order to liberate his country, North America, from the Spanish dominion which oppressed her, proclaimed her independence at Ignala, the 24th of February, 1821, exposing his person and his life, the fate of his children and his wife, that of his old father and his friends; on the 2d of March of the same year swore allegiance to it, desseminating the doctrine throughout the kingdom, by means the best adapted for the success of such a great and sublime undertaking; the sacrifice which he made of his property and his person, the privations which he underwent, the dangers which he was obliged to overcome, among others the persecutions of the Spanish government, which, by means of force, seduction, intrigue, and rewards, attacked his existence, and by means of defamation outraged his good name; the certain means, as well political as military, by which, making himself the centre of the union of the armed force and moral strength of the provinces, he directed both with so sure an aim that he at once made respectable the three guarantees, dislodged the Spanish troops with inferior forces from the cities of Valladolid and Queretaro, and afterwards from Pueblo and Mexico; the valor with which he knew how, in all the actions which occurred, to conquer his enemies, at the same time economising the shedding of blood on both sides to such a degree, that on the side of the Mexicans the number of killed amounted to but two hundred; governing the army with the greatest moderation and prudence, that none of the towns through which he passed found cause of complaint, but all rather praised his strict discipline and valor; the wise economy of his expenses, the consideration which he deserved from the towns which he freed entirely from some of the contributions which distressed them and lowered others; the bold activity with which he knew how to restore order, making the authorities respect the rights of the citizens, both those of personal liberty as well as of property; the foresight and skill with which he brought about the treaty of Cordova, dispersing by his delicate management an infinite multitude of difficulties, which, although he would in the end have overcome, yet which nevertheless would have occasioned much expense, and perhaps irreparable injuries; the disinterestedness which he manifested throughout for the good of his country alone, which he placed in the full enjoyment of her liberty and rights, without doing anything other than the same nation desired to do for his greater compliment and benefit, carrying his modesty to the extreme of refusing, with the most lively pertinacity, the establishment of his household, when he learned that such a project was on foot, as appears from this respectful conduct, on the 1st of February of the present year, which will recommend to all ages his punctuality and integrity; and since no nation exists that has not responded to the authors of its liberty,

by rewarding them worthily with honors, station, and wealth, the Mexican nation, ever generous and magnanimous, represented by this governmental provisional sovereign congress, having, as far as it was possible, fulfilled its duty by giving to the author of its liberty, to the founder of the empire, and to the vindicator of its imprescriptible rights the honors and station of which they deemed him worthy, taking into consideration, that now it is just to provide for the future of his family and children, as his vigilance is still dedicated to the general good of the nation, and because, to his great ablities, liberal mode of thinking and pure patriotism, the same nation owes the re-union which is to take place on the 24th of the present month, for the purpose of fixing and consolidating its government, in order to perpetuate the memory of the day so glorious, and by an act which will establish, in the midst of peace and tranquillity, that which the present generation admires and future ones will extol; considering likewise that such numerous and astonishing achievements were accomplished in the short space of seven months, without the necessity of foreign aid, has been pleased to ordain and decrees:

First. That in order to establish the household of the Admiral Generalissimo, President of the Regency, D. Agustin de Yturbide, he shall appropriate to himself, in full ownership and property, all the real estate, both rural and municipal, goods, rights, and actions of the suppressed society of the Inquisition, to the value of one million of dollars, (previously separating those belonging to the brotherhood of St. Peter the Martyr, the charitable obligations chargeable upon them, and funds received from time to time by them as depositaries,) and a tract of land of twenty leagues square, in the province of Texas, in the location he may deem most advantageous; the supreme congress, in the exercise of its punctions, reserving the righ to add to this when the affairs of the treasury are in better condition.

Second. That the regency, to whom is given all the authority necessary for this purpose, shall proceed to execute the necessary instruments of transfer of the above-mentioned property of the Inquisition; and shall proceed to separate that of the brotherhood of St. Peter the Martyr, charitable charges, and acknowledgments to irregular depositors, and shall designate the twenty leagues square of land; and if the revenues of the empire are established, and the government may desire to retake the property by paying the million in cash, that it may do so, provided, at the same time, that the generalissimo may ask for it, his petition to that effect will be granted.

Third. In respect to this property being hypothecated to the contributors to the voluntary loan, the regency is empowered in the same manner to substitute therefor other national resources, notwithstanding the fund derived from the missions of California

and the half of the duties are sufficient to guarantee its payment, since the public faith requires this contract to be sustained with all this formality.

The regency will have this decree carried out, and will provide whatever is necessary for its execution, and for its printing, publication, and circulation.

Mexico, 22d of February, 1822, and 2d of the independence of the empire.

A true copy. Mexico, Nov. 7, 1851.

JOSÉ MARIA ORRIZ MONASTERIO.

To his Excellency the Minister of Relations and Government, D. Luis G. Cuevas:

On the 20th of February, 1841, the minister of the interior communicated to me that his excellency the president had been pleased to grant the petition which I made as executor of D. Agustin de Yturbide, in conjunction with his widow, in order that the twenty leagues square granted by the decree of the 18th of April, 1835, to his family, in recompense for his having achieved the independence of his country, might be located in Upper California.

I communicated with her ladyship, in order that, in concert with her sons, she might designate to me the manner of proceeding to carry it into execution; but not having at her control any person of confidence to choose, mark, and survey the land, nor the necessary means, she has been unable to take any steps in the matter until now, when one of her sons, Don Salvador, having completed his 25th year, has resolved to go to that department, and receive for himself and in the name of his mother and brothers, the lands, mark their boundaries, and do everything necessary in order that the family may enjoy the benefit thereof.

With this object, and in order that he may take advantage of the opportunity of going in company and enjoying the protection of Señor Ymiestra, who expects to set out from day to day, you will be kind enough to inform his excellency the provisional president of this application, so that he may cause the necessary orders to be issued, in order that possession may be taken of the lands, and at the same time that Don Salvador may be assisted two thousand dollars for the expenses of the journey, on account of the million referred to in the above-mentioned law.

Be pleased to accept, at the same time, the assurances of my consideration and respect.

God and liberty. Mexico, May 19, 1845.

JUAN GOMEZ DE NAVARETE.

To E. S. Minister of Relations and Government, D. Luis G. Cuevas.

A true copy. Mexico, Aug. 29, 1851.

O. MONASTERIO.

A true copy. Mexico, Nov. 7, 1851.

JOSÉ MARIA ORRIZ MONASTERIO.

OFFICE OF THE MINISTER OF FOREIGN RELATIONS,
GOVERNMENT, AND POLICE.

SIR: Don Salvador de Yturbide, son of his excellency D. Agustin de Yturbide, being about to visit your department, in order to receive for himself, and in the name of his mother and brothers, the 400 square leagues of land which the decree of the 18th of April, 1835, granted to his family, chiefly in recompense for having achieved the independence of his country, his excellency, the provisional president, has been pleased to order that you proceed to the survey of the above mentioned 20 leagues square in the vacant lands of the territory under your command, as may be satisfactory to the aforesaid D. Salvador; and that you give an account of having done so, in order that this business may be finished in a proper manner. I say this to your excellency in order to further its accomplishment, and I reiterate the assurances of my particular regard.

God and liberty. Mexico, June 5, 1845.

CUEVAS.

To his Excellency the Governor of the
Department of the Californias.

A true copy. Mexico, Nov. 7, 1851.

OFFICE OF THE GOVERNOR OF THE DEPARTMENT OF CALIFORNIA.

YOUR EXCELLENCY: So soon as Don Salvador shall present himself in this department, to receive for himself and in the name of his mother and brothers the 20 leagues square of land which the decree of the 18th April, 1835, granted to the family of D. Agustin de Yturbide, in recompense for having achieved the independence of his country, this department will give orders to proceed to the survey of the said 20 leagues square, in the vacant lands of this territory, such as may be satisfactory to Don Salvador; and having done so, I will give an account to the bureau in charge of your excellency, for the information of the supreme government.

This is what I have the honor of saying to your excellency in reply to your note of the 8th June last, asking you to submit it to the president, to whom, as well as to yourself, I reiterate the assurances of my respect.

God and liberty. Angeles, October 20, 1845.

PIO PICO.

To his Excellency Minister of Foreign
Relations, Government, and Police.

A true copy. Mexico, Nov. 7, 1851.
JOSÉ MARIA ORRIZ MONASTERIO.

OFFICE OF THE MINISTER OF FOREIGN AFFAIRS,
GOVERNMENT, AND POLICE.

His excellency the provisional president, yielding to your application under date of the 19th of the month last past, has been pleased to arrange that the proper orders shall be given to their excellencies, the governor of the department of the Californias and the minister of hacienda, as has been done to-day, in order that the former may cause to be surveyed the 20 leagues square granted to family of his excellency D. Augustin de Yturbide by the decree of the 18th of April, 1835, in the vacant lands of said department, which shall be pointed out by D. Salvador de Yturbide, as heir and representative of the same family; and to the latter in order that he may cause to be delivered to the said D. Salvador, for his expenses of the journey, two thousand dollars on account of the million decreed also in favor of the same family.

I communicate the above to your excellency for your information, and offer you the assurances of my sincere regard.

God and liberty. Mexico, June 5, 1845.

CUEVAS.

To his Excellency, Senator and Judge of the
Supreme Court of Justice, D. JUAN DE NAVARETE.

OFFICE OF THE MINISTER OF FOREIGN RELATIONS,
GOVERNMENT AND POLICE.

MOST EXCELLENT SIR: His excellency the governor of the department of the Californias, by date of the 20th of October, advises me as follows:

"SIR: So soon as D. Salvador de Yturbide shall present himself in this department to receive for himself, and in the name of her ladyship, his mother, and brothers, the twenty leagues square of land, which, by the decree of the 18th April, 1835, was granted to the family of D. Agustin de Yturbide in recompense for having achieved the independence of his country, this government will make arrangements to proceed with the survey of the aforesaid twenty leagues square in the vacant lands of this department as may be agreeable to said D. Salvador, and having accomplished it, I will report to the bureau in charge of your excellency for the information of the supreme government. I have the honor of writing this in reply to your note of the 5 June last, requesting you to show it to the president, to whom, as well as to yourself, I reiterate the assurances of my regard."

I have the honor of enclosing this to your excellency as the re-

sult of his communication upon this business, reiterating the assurances of my distinguished respect.

God and liberty. This day, Mexico, Nov. 28th, 1845.

PEÑA Y PEÑA.

To his Excellency, Senator and Judge
of the Supreme Court of Justice,
D. JUAN G. NAVARETE.

The undersigned, minister of interior and exterior relations, certifies:

That, having searched with the proper care in the archives of this office for the application made by Señor D. Juan Gomez Navarete to his excellency the president of the republic, in the year 1840 or 1841, asking for the lands granted in Upper California to the family of his excellency D. Augustin de Yturbide, and the communication directed to Señor Navarete, informing him that the president had been pleased to grant his application; that these papers could not be found, for the reason that they were doubtless extracted among many others in the year 1847, when the palace was occupied by the North American forces.

Mexico, March 31, 1852.

For the minister.

JOSÉ MARIA ORRIZ MONASTERIO.

The undersigned, chief clerk in the office of the minister of foreign and domestic relations, certifies:

That up to this date there is no official record that the representatives of his excellency Señor Don Augustin de Yturbide have ever been put in possession of the lands which, in recompense for his distinguished services, were awarded to him by the decrees of the 21st February, 1822, and 18th April, 1835.

And, in order to further the ends of the parties interested, I issue this the 23d day of October, 1850.

JOSÉ MARIA ORRIZ MONASTERIO.

Page 53. Copy of decree of Mexican congress, Ap'l 18, 1835.
54. Decree of the same of 22d February, 1822.
57. Application of Navarete, exec'r, to sec'y of state, May 19th, 1845.
59. Cuevas, sec'y of state, to Pio Pico, governor of California, June 5, 1845.
59. Pio Pico in reply, Oct. 20, 1845.
60. Cuevas, sec'y of state, to Navarete, ex'r, 5 June, 1845.
61. Peña y Peña, sec'y of state, to Navarete, 28 Nov., 1845.
62. Certificate of clerk of foreign relations, Mar. 31, 1852.
62. Certificate do. do. do., Oct. 23, 1850.

Filed in office July 6th, 1852.
(Signed) GEORGE FISHER,
Secretary.

Opinion.

THE EXECUTOR AND HEIRS OF AGUSTIN DE YTURBIDE
vs.
THE UNITED STATES.

For 400 square leagues of land on the west side of the Sacramento river.

[*Here follows map—see original, page* 67.]

By a decree of the 21st of February, 1822, passed by the provisional congress of Mexico, which was organized under the provision of the treaty of Cordova, there were granted to Agustin de Yturbide, in consideration of his services in the then recent revolution, the estate of the suppressed society of the inquisition to the value of one million of dollars, and also a tract of land of twenty leagues square in the province of Texas, in the location he may deem most advantageous. At the date of this decre, Yturbide was president of the regency, in whose hands was the supreme executive power of Mexico. In the eventful period of the next eighteen months, he was crowned as emperor of Mexico, was compelled to abdicate, departed in exile from his country, was declared a traitor by act of congress, returned again to his native land, and was arrested and executed.

By decree of the 18th of April, 1835, the Mexican congress ordered the one million of dollars mentioned in the former decree to be paid in cash as soon as the condition of the exchequer would permit, and "that the twenty square leagues of land mentioned in said decree be given to his heirs and executors in the territories of New Mexico, or in Upper and Lower California, (if it cannot be had in Texas,) on such terms as the government may agree upon with the parties interested."

Subsequently, application was made to the executive for leave to make the location of the land in California, and on the 5th of June, 1845, a communication was made by the minister of foreign relations to the governor of the department of Californias, stating that Don Salvador de Yturbide, the son of his excellency Don Agustin de Yturbide, was about to visit that department, in order to receive the land before mentioned, and that the president has ordered that he proceed to the survey of the said twenty leagues square in the vacant lands of the territory as might be satisfactory to said Don

(signed). Geo. Tuite &c

Salvador. The reply of the governor, Pio Pico, under date of October 20th, 1845, declares that as soon as Don Salvador should present himself in the department to receive the land, the department will give orders to proceed to the survey of the said twenty leagues square in the vacant lands of this territory such as may be satisfactory to Don Salvador."

In 1845, according to the testimony of J. Y. Limantour, Salvador de Yturbide was appointed a commissary for Upper California, and started for this country, but an insurrection broke out in Mexico, and prevented his embarking; the journey was therefore abandoned. It is admitted in the petition that from this time until after the full cession of California to the United States by the treaty of Guadalupe Hidalgo, nothing further was done in reference to the location of said lands.

The right of the executor and heirs of Yturbide was simply that of selecting from the vacant national domain in California the quantity of land designated by the decree of congress, and this right continued as long as the sovereign power of Mexico continued in this department. But when this authority ceased, and the whole domain was transferred to the ownership as well as jurisdiction of the United States for a valuable consideration by the treaty of peace and of cession, the right to make the location of the land was determined. If not the fault, it was the misfortune of the claimants that they did not avail themselves of the privilege of making the selection of the lands, to which their government proffered them a title, until that government had transferred that title to another sovereign nation.

The principle so often repeated and applied by us, that a segregation of the land claimed was indispensable to title, and without which no confirmation could be had, applies fully in this case. No such segregation is claimed to have been made while the Mexican authority continued, and after the ratification and proclamation of the treaty it was too late to make it. The claimants may probably have just claims to indemnity from the government of Mexico, but they have clearly failed to show a title, legal or equitable, to any portion of the territory ceded to the United States by that nation.

The claim must therefore be rejected.

Rejected.

Filed in office December 19, 1854.

(Signed) GEO. FISHER,
Secretary.

Decree.

THE EXECUTOR AND HEIRS OF AGUSTIN DE YTURBIDE
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged

by the commission that the claim of the said petitioners is not valid; and it is therefore decreed that their application for a confirmation thereof be denied.

(Signed) ALPHEUS FELCH,
(Signed) R. AUG. THOMPSON,
(Signed) S. B. FARWELL,
Commissioners.

Filed in office December 19, 1854.
(Singed) GEO. FISHER,
Secretary.

Order.

It appearing to the satisfaction of this board, that the land adjudicated in this case is situated in the northern district of California, it is hereby—

Ordered, That two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary; one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

Secretary's Certificate.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing seventy pages, numbered from one to seventy, both inclusive, to contain a full, correct, and true transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 281 on the docket of the said board, wherein The Executor and Heirs of Agustin Yturbide are the claimants against The United States for the place known by the name of "twenty leagues square of land."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this twenty-fifth day of May, A. D. 1855, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, [SEAL.]
Secretary.

Endorsed: Filed June 2, 1855.
JNO. A. MONROE, *Clerk.*

Notice of Motion and Affidavits.

In the District Court of the United States for the northern district of California.

AGUSTIN YTURBIDE et al.
vs.
THE UNITED STATES. } No. 207.

You will please take notice that on the 3d day of April, 1856, at the opening of the court, or as soon thereafter as counsel can be heard, I shall move said court for leave to serve and file in said cause a notice of the intention of the claimants to prosecute the appeal pending in said court from the decision rendered in said cause by the United States land commissioners for the adjudication of private land claims in the State of California; and shall also at the same time move said court for leave to prosecute said appeal; and on the hearing of said motions shall offer in support thereof the affidavits of J. B. Crockett and Gwyn Page, copies of which are hereunto annexed.

Dated at San Francisco, this 2d day of April, 1856.

J. B. CROCKETT,
Att'y for Claimants.

To S. W. INGE, Esq.,
District Attorney for the United States.

District Court of the United States for the northern district of Cal'a.

AGUSTIN YTURBIDE et als.
vs.
THE UNITED STATES. } No. 207.

J. B. Crockett, being duly sworn, deposes that he is the sole counsel for the claimants in the above entitled cause, his former partner, J. B. Wells, having left California on or about the 1st June, 1855, with the intention not to return again to this State, as deponent has been informed and believes. That deponent himself left this State on the 16th day of June, 1855, on a visit to the Atlantic States, upon necessary business requiring his attention there. That it was his intention to return to this State within about four months after his departure; but soon after his arrival in the Eastern States he was seized with intermittent fever, and continued sick for a period of more than five months, with occasional short intervals of tolerable health, but was advised by his physicians that he could not safely undertake the voyage to California in his then state of health. He was in this manner detained in Kentucky until about the 28th Dec'r, when he set out for California, reaching San Francisco on the 2d day of February last. He states that the transcript of the record in the above entitled cause was filed in the district court on the 2d day of June last, only a few days before depo-

nent's departure from the State, and he was not aware when he left that it had been so filed. But upon leaving, he requested his present partner, Gwyn Page, to file notices of appeal for deponent in all his land cases pending in the district court, and left with him for that purpose a list of said cases, on which list was the case aforesaid; but owing to mere inadvertence, and by mistake, the said Page overlooked the said case, and omitted to file and serve said notice therein within six months next after the filing of said transcript.

Deponent further states that said Page is not one of the attorneys for the claimants, and has no interest in said cause as attorney or otherwise, and was acting in respect to said notice only at the request of this deponent; and, except for deponent's sickness as aforesaid, he would have returned to San Francisco in time to have filed and served said notice, and would have done so within the proper time.

J. B. CROCKETT.

Sworn to before me, March 31, 1856.

W. H. CHEVERS,
U. S. Commissioner.

Gwyn Page, being duly sworn, deposes that he has read the foregoing affidavit of J. B. Crockett, and that it is true, as therein stated, that said Crockett, on his departure for the Atlantic States in June last, left with deponent a list of his land cases pending in the district court of the United States for the northern district of California, and requested deponent to file notices of appeal therein in the proper time, which he promised to do; but in the multiplicity of his engagements he accidentally overlooked the case referred to in said Crockett's affidavit, and, through mere inadvertence, omitted in that case to file the notice of appeal within the proper time.

GWYN PAGE.

Sworn to before me, March 31, 1856.

W. H. CHEVERS,
U. S. Commissioner.

Endorsed: Filed April 3, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Notice of Appeal.

U. S. District Court, nor. district of Cal'a.

EXECUTOR AND HEIRS OF AGUSTIN DE YTURBIDE
vs.
THE UNITED STATES.

You will please take notice, that it is the intention of the above

named claimants to prosecute the appeal from the decision of the board of U. S. land commissioners, rejecting their claim.

Yours, &c.,

WALKER, CROCKETT, WELLS & BAKER,
Att'ys for Claimants.

Endorsed: Filed April 30, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Petition.

In the District Court of the United States, northern district of California.

DON HILARIO ELQUIERO, Executor of the last Will and Testament of Don Agustin de Yturbide, deceased, Doña Maria Huerte de Yturbide, widow of said Agustin de Yturbide, Don Agustin Gominus de Yturbide, Angel de Yturbide, Salvador de Yturbide, Felipe de Yturbide, Agustin C. D. Yturbide, Doña Sabina de Yturbide, and Josefa de Yturbide, the children, devisees and heirs-at-law of the said Agustin de Yturbide, deceased,

v.

THE UNITED STATES.

To the Honorable Ogden Hoffman, jr. Judge of the District Court of the United States for the northern district of California.

Your petitioners above named respectfully show that heretofore, to wit, on the 6th day of July, 1852, they filed before the United States board of land commissioners for the State of California a petition for the confirmation of their claim to a tract of land situate in the northern district of California, and in the county of , for a description of which land and the title thereto reference is hereby made to said petition. That after hearing said petition, the proofs, and the argument of counsel in the cause, the said board, on the 19th day of December, 1854, rejected said claim as invalid; that on the 2d day of June, 1855, a transcript of the record was filed in this court, by virtue whereof and by force of the statute in that case made and provided, an appeal to this court was duly effected; that on the 3d day of April, 1856, your petitioners filed in this court a notice of their intention to prosecute said appeal.

Your petitioners therefore pray that the decision of said board be reversed, and that this court confirm their title to said claim,

to which confirmation your petitioners allege they are justly and lawfully entitled.

WALKER, CROCKET, WELLS & BAKER,
Atty's for Claimants.

Endorsed: Filed April 30, 1856.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of Dom'o Danglada.

United States District Court, northern district of California.

SAN FRANCISCO, *August* 26, 1856.

On this day, before George Pen Johnson, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c. &c., came Domingo Danglada, a witness produced on behalf of the claimants in case No. 207, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California in case No. 281 on the docket of the said board of commissioners, and was duly sworn and testified as follows.

Present, the U. S. district attorney on behalf of the U. S., and J. B. Crocket, esq., on behalf of the claimants.

Questions by the Att'y for the Claimants.

Question 1. What is your name, age, and place of residence?

Answer 1. My name is Domingo Danglada; I am 45 years of age; and I reside in San Francisco.

Question 2. Are you, or were you, acquainted with Don Salvador Yturbide? If yea, have you any knowledge with respect to his having set out from Mexico on his way to California with reference to the location of lands in controversy in this suit? State all your knowledge on that subject.

Answer 2. I knew Don Salvador Yturbide during his lifetime. I saw him at Tepic about the end of the year 1846. (Tepic is near the port of San Blas on the Pacific coast of Mexico.) He told me he was on his way to California; he was then an officer—a commissary—in the Mexican army, in the division of General Bustamente; as he was coming to the port of Mazatlan the commander-in-chief at that port broke out in a rebellion against the government, and Don Salvador Yturbide was obliged to go back to the city of Mexico.

Cross-examination.—Questions by the U. S. District Attorney.

Question 3. Where were you residing at the time of which you speak, at the end of the year 1846?

Answer 3. I was residing in the city of Tepic.

Question 4. Where was General Bustamente at this time?

Answer 4. He was at Tepic too.

Question 5. Was the city of Mexico at this time embraced within the division of General Bustamente?

Answer 5. It was not.

Question 6. Did Don Salvador Yturbide ever visit California? If so, at what time?

Answer 6. I saw him again in San Francisco in the year 1851 or 1852.

DOM'O DANGLADA.

Sworn to and subscribed before me this 26th day of August, 1856.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed August 26, 1856.
JNO. A. MONROE, *Clerk.*

Answer.

In the District Court of the U. S. for the northern district of Cal'a.

THE UNITED STATES
v.
EXECUTOR AND HEIRS OF AGUSTIN YTURBIDE. } D. C. 207.—L. C. 281.

The United States, by their attorney, deny the validity of the title set out in the petition of the appellants, and pray that the decision of the U. S. land commissioners be affirmed, and that the said title be decreed invalid.

San Francisco, Feb'y 12, 1857.

WM. BLANDING,
U. S. Att'y.

Endorsed: Filed February 12, 1857.
JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order allowing Claimants to file Notice of Appeal.

In the District Court of the United States, northern district of California.

AGUSTIN YTURBIDE et als.
vs.
THE UNITED STATES. } No. 207.

It appearing to the satisfaction of the court, that on the 3d day of April, 1856, an order was made by the court in open session, on due notice to the district attorney of the United States, and on the

affidavits of J. B. Crockett and Gwyn Page, on that day filed in said cause, permitting the claimants to serve and file a notice of their intention to prosecute their appeal from the decision rendered in said cause by the United States land commissioners for the adjudication of private land claims in the State of California, and also permitting said claimants to prosecute said appeal; and it appearing further to the court, that said order, through inadvertence, was omitted to be entered on the minutes of the court, it is thereupon ordered, that the said order be now entered nunc pro tunc, and that the claimants in said cause be permitted to prosecute their said appeal with like effect as if the said order had been duly entered on the day when it was made.

Endorsed: Filed Feb'y 13, 1857, for April 3, 1856.
JNO. A. MONROE, *Cl'k.*
By W. H. CHEVERS, *Dep'y.*

Communication from Minister of Ex. Re. of Mexico to the Governor of California, of June 5, 1845.

Ministerio de Relaciones Exteriores, Gobernacion y Policia.

(Contadada el 20 de Octubre, de 1845.—C.)

Ex'mo Señor: Debiendo pasar a ese departamento D. Salvador Yturbide, hijo del E. Sr. D. Agustin de Yturbide, a recibir por si y a nombre de la ex'ma s'ra su madre y hermanos, las veinte leguas aradradas de tierra que el decreto de 18 de Abril, de 1835, concedió a la familia del primero en premio de haber hecho la yndependencia de su patria, el ex'mo Señor presidente interino se ha servido disponer q'e V. E. haga se proceder a la medida de las referidas veinte leguas cuadradas en los terrenos baldios del territorio de su mando que convenga el citado D. Salvador, y dé cuenta de haberse verificado para la resolucion conveniente.

Digola a V. E. para su cumplimiento y le ristero las seguridades de mi particular aprecio.

Dias y libertad.

Mexico, Junio 5, de 1845.

CUEVAS.

Ex'mo Señor Gobernador del Departamento de Californias.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the pre-

ceding and hereunto annexed page of tracing paper, numbered one, exhibits a true and accurate copy of a certain document now on file and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this ninth day of April, 1856.

[SEAL.]

JOHN C. HAYS,
U. S. Surveyor General for California.

Translation.

(Answered 20th Oct., 1845.—C.)

OFFICE OF THE MINISTER OF FOREIGN RELATIONS,
GOVERNMENT AND POLICE.

SIR: Don Salvador de Yturbide, son of his excellency, D. Agustin de Yturbide, being about to visit your department in order to receive for himself and in the name of his mother and brothers, the twenty leagues square of land which the decree of the 8th of April, 1835, granted to his family, chiefly in recompense for having achieved the independence of his country, his excellency, the provisional president, has been pleased to order that you proceed to the survey of the above mentioned twenty leagues square, in the vacant lands of the territory under your command, as may be satisfactory to the aforesaid D. Salvador, and that you give an account of having done so, in order that this business may be finished in a proper manner.

I say this to your excellency in order to further its accomplishment, and I reiterate the assurances of my particular regard.

God and liberty.

Mexico, June 5, 1845.

CUEVAS.

To his Excellency the Governor of the Dep't of the Californias.

Endorsed: Filed May 29, 1857.

JNO. A. MONROE, *Cl'k.*
By CHEVERS, *Dep'y.*

Communication of the Mexican Minister, &c., to the Hon. R. P. Letcher.

(Copia.)

A. S. E. el S. R. P. Letcher, Enviado Extraordinario y Ministro Plenipotenciario de los Estadas Unidos de America.

PALACIO NATIONAL, MEXICO,
Mayo 24, *de* 1852.

El infrascrito Ministro de Relaciones tiene el honor de remitir a S. E. el S. R. P. Letcher, Enviado Estraordinario y Ministro Plenipotenciario de los Estadas Unidos de America, copia del ocurso que

se ha presentado por parte de la testamentaria del E. S. D. Agustin de Yturbide para que se le de posecion por el gobierno Americano de veinte leguas en cuadro de tierra en la Alta California que le concedio el gobierno de Mexico, en 1822.

El infrascrito al remitir el documento referido, recomienda al S. Letcher el buen despacho del asunto, pues siendo cierto cuanto se espone en el asi lo espera del gobierno Americano.

El infrascrito aprovecha esta portanidad para recitara al S. Letcher las segudades de su muy distinguida consideracion.

(Firmada:) JOSÉ F. RAMIREZ.

LEGATION OF THE UNITED STATES, MEXICO,
May 26, 1852.

I certify that the foregoing is a true and faithful copy of the original on file in this legation.

[SEAL.] R. P. LETCHER.

(Copia.)

E. S. El Licenciado José Hilario Elguero, albacea dativo del ex'mo S'or D. Agustin de Yturbide, ante V. E. respectuosamente expongo; que por decreto de 21 de Febrero, de 1822, se mandaron dar al ex'mo S'or Yturbide en premio de haber hecho la independencia veinte leguas en cuadro de tierra en Texas, y por la ley de Abril de 1835, se dispuso que esos terrenos se diesen al albacea y Herederos del espresado Señor en Nuevo Mexico o la Alta California en los terminos que el supremo gobierno acordarse con los interesados. Mi antecesor en el albacearzo el Señor D. Juan Gomez de Navarete, solicito en el año de 1843, que las tierras se dieran en la Alta California, y habiendo el supremo gobierno accedido a su solicitud, se libro orden al gobernador de aquel departamento con fecha 5 de Junio, de 1845, para que diese la correspondiente posecion al Señor D. Salvador de Yturbide que es uno de los herederos, el cual marcho para aquel punto pero hallandose en camino, estallo und revolucion que le impidio seguir el viage, y despues por la guerra con los Estados Unidos, fue ya muy dificil y quedo sin efectuarse la posesion. Esta no puede darse ya por las autoridades Mexicanos, en virtud de la cesion que se hizo de la Alta California, a los Estados Unidos en los tratados de Guadalupe, pero como la testamentaria que represento tenia ya adquirido un titulo legal a aquellas tierras, y solo le falto el acto de la posecion material, parece justo que por el gobierno de los Estados Unidos se le reconosca y haga efectivo su derecho. Y al efecto creo que seria de gran peso el que V. E. se sirviese dirijir una nota al ex'mo Señor ministro plenipotenciario de la expresada republica a fin de que se sirva recomendar este negocio con su gobierno y asegurandole que son ciertas las hechos que dijo referidos, por constar en la secretaria del digno cargo de V. E. De esta manera el gobierno Mexicano podra con-

tribuir a que tenga efecto una de las gracias con que nuestra patria quiso recompensar el relevante merito del candillo de nuestra independencia. Y por lo tanto a V. E. suplico se sirva acceder a mi solicitud.

Mexico, Mayo 21, de 1852.

JOSE H. ELGUERO.

Ex'mo Señor.

Es copia.—Mexico, 24 de Mayo, 1852.

(Firmado:) JOSE MARIA ORTIZ MONASTERIO.

LEGATION OF THE UNITED STATES, MEXICO,
May 26, 1852.

I certify that the foregoing is a true and faithful copy of the original on file in this legation.

[SEAL.] R. P. LETCHER.

Translation.

To His Excellency R. P. Letcher, Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

NATIONAL PALACE, MEXICO,
May 24, 1852.

The undersigned, minister of relations, has the honor to transmit to his Excellency R. P. Letcher, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, a copy of a statement which has been presented on the part of the succession of his excellency D. Agustin de Yturbide, in order that the estate may obtain possession at the hands of the American government of the twenty leagues square of land in Upper California, which was granted to his excellency in 1822, by the government of Mexico.

The undersigned, in transmitting the document referred to to Mr. Letcher, begs leave to request his early attention to this subject, inasmuch as the statements therein being true, he does not doubt the action of the American government.

The undersigned embraces this opportunity to reiterate to Mr. Letcher the assurances of his most distinguished consideration.

(Signed) JOSÉ F. RAMIREZ.

MOST EXCELLENT SIR: The undersigned, José Hilario Elguero, by profession an attorney, dative administrator of the last will of his excellency D. Agustin de Yturbide, respectfully represents to your excellency:

That by a decree of the 21 February, 1822, a donation was made to his excellency Señor Yturbide, as a recompense for having achieved the independence of his country, of a tract of land of twenty leagues square in Texas, and by the law of the 18th April, 1835,

it was ordered that this land should be given to the executors and heirs, in New Mexico, or Upper California, on such terms as the supreme government might agree upon with the parties interested. My predecessor in the executorship, Don Juan Gomez de Navarete, petitioned in the year 1843, that the lands should be donated in Alta California; and the supreme government having granted his petition, orders were given on the 5th day of June, 1845, to the governor of that department, to give the necessary possession of the same to D. Salvador Yturbide, one of the heirs, and who started for that territory, but while on the route thither a revolution broke out, which prevented him from continuing his journey, and after that time the war with the United States rendered this trip still more difficult, and so it remained, without it being in his power to take possession of the same.

At this time, this possession cannot be given by the Mexican authorities in consequence of the cession made of Alta California to the United States by the treaty of Guadalupe; but as the succession which I represent had already a legal title acquired to said lands, and all that was wanting was the mere act of material possession, it appears to be just that their right should be recognised and made effective by the U. S. government.

And to this end it would be of service, in my opinion, if your excellency would have the kindness to address a note to the minister plenipotentiary of said republic, in order that he may submit this subject to the attention of his government, assuring him that the representations which I have above made are true, and may be verified by reference to the bureau under the worthy charge of your excellency.

In this manner the Mexican government may lend its aid to give effect to one of those acts of gratitude by which our country delighted to honor the distinguished merit of the chief of own independence.

Wherefore I hope your excellency will do me the favor to accede to my request.

Mexico, May 21, 1852.

(Signed) JOSÉ H. ELGUERO.

To His Ec'y Jose F. Ramirez.

A true copy.

Mexico, 24th May, 1852.

(Signed) JOSÉ MARIA ORTIZ MONASTERIO,
Chief Clerk of Secretary of Foreign Relations.

Endorsed: Filed May 29, 1857.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Opinion by Judge Hoffman.

U. S. District Court.

THE EXECUTOR AND HEIRS OF AGUSTIN YTURBIDE vs. THE UNITED STATES. } No. 207.

The claim in this case having been rejected by the board, the transcript was duly filed in the clerk's office of this court on the 2d of June, 1855. No notice of appeal was filed by the claimants within six months thereafter as required by law, but on the day of a motion was made by the claimants' counsel for leave to file such notice nunc pro tunc, and to prosecute the appeal. No order or decree dismissing the appeal had been obtained by the district attorney, and the circumstances attending the omission to file the notice were such as to have induced the court at once to grant the application, if it had possessed any discretion on the subject. Much doubt was, however, entertained by the court whether it could, on any showing, disregard what seemed the positive requirements of the statute. The motion was, therefore, with the acquiescence of the district attorney, granted, in order that, if the court had any discretion on the subject, it might appear to have been exercised in favor of the application, and in order that testimony on the merits might be taken, and the whole case submitted to the Supreme Court in such a form as to enable them finally to dispose of it when, for the first time, brought before them. It was, however, expressly mentioned that the point as to the jurisdiction of the court to grant the motion was reserved until the final hearing; and that if the court should then be of opinion that it had no power to allow a notice of appeal to be filed after the expiration of six months from the filing of the transcript, the claim would be rejected for want of jurisdiction. This question must, therefore, be now disposed of.

By the 12th section of the act of 1851, it was provided, "that to entitle either party to a review of the decision of the board of commissioners, notice of the intention to file a petition in the district court shall be entered on the journal of the board within sixty days after the decision of the claim has been notified to the parties, and the decision shall be filed in the district court within six months after the decision has been rendered."

The mode above prescribed for removing the cause was altered by the act of 1852. In that law it was provided, "that the commissioners shall cause a transcript of their proceedings and decision to be filed with the clerk of the district court, and that the filing of such transcript shall ipso facto operate as an appeal for the party against whom the decision shall have been rendered; that if such decision shall be against the private claimant, it shall

be his duty to file a notice within six months thereafter of his intention to prosecute the appeal, and if the decision shall be against the United States, it shall be the duty of the Attorney General, within six months after receiving a copy of the transcript, (directed by the act to be sent to him by the board,) to cause a notice to be filed with the clerk aforesaid that the appeal will be prosecuted by the United States, and on failure of either party to file such notice with the clerk, the appeal shall be regarded as dismissed."

The acts of 1824, 1828, 1830, relating to lands in Missouri, Arkansas and Florida, provided that all claims within their purview should be brought before the courts authorized to adjudicate upon them within a specified period. Under these acts it has always been held that the courts had no jurisdiction over petitions not presented within the time limited.

In United States v. Marvin, 3. Howard, 623, it is said by the court: "The policy of Congress was to settle the claims in as short a time as practicable, so as to enable the government to sell the public lands, which could not be done with propriety until the private claims were ascertained. As these were many in number, and for large quantities, no choice was left to the government but their speedy settlement and severance from the public domain. Such has been its anxious policy throughout, as appears from almost every law passed on the subject." Similar observations are repeated in Vallabolas v. The United States, 6 How., 91.

In furtherance of this policy it was provided by the act of 1851 that all lands, the claims to which shall not be presented to the board within two years from the date of the act, shall be deemed part of the public domain, and after their decision, though an appeal was allowed, the party to be entitled to it was required to file a notice of his intention to prosecute, within sixty days after the decision has been notified to him, and to file his petition in the district court within six months from the date of the decision.

These provisions were clearly limitations, nor will it be contended that, under them, either party could file a petition, or otherwise prosecute his appeal after the expiration of the six months prescribed by law.

The alteration in the mode of taking the appeal made by the law of 1852, above referred to, had for its principal object to relieve the claimants of the burden and expense of procuring copies of the transcripts to be made, and to allow to the Attorney General a longer time to determine whether an appeal should be prosecuted than the sixty days within which the notice was required to be entered on the journals of the board. It was accordingly provided that the board should cause the transcripts to be made out and filed in the district court, and that such filing should ipso facto operate as an appeal. As, however, Congress did not mean to enact that a land case should be appealed, whether the party against whom the

decision had been made desired it or not, and as the provisional appeal could not continue forever, the same period for filing a notice of an intention to prosecute it, or to profit by the appeal which had been thus by operation of law been taken, was prescribed, as had previously been assigned for filing the petition in the district court.

It was, therefore, not only made the duty of the Attorney General or the claimant to file such notice within the time limited, but it was provided that on the failue of either party to file such a notice, the appeal "should be regarded as dismissed."

We think that by these provisions Congress intended to prescribe a rule of action to the court, which it is not at liberty to evade or to disregard. That some limitation of the right of appeal to a definite period is necessary in all cases, is obvious. That it is peculiarly necessary in this class of cases, and that it has been restricted within limits much narrower than those allowed in ordinary suits, by all the acts of Congress previously passed, is equally evident. When, therefore, we find the act of 1851 allowing a time for appeal still shorter than that prescribed in previous acts, it is difficult to believe that Congress, by the amended act of 1852, intended to depart from a policy so well settled and so necessary, and to permit the court to allow the appeal to be prosecuted whenever in its judgment the party desirous of appealing might sufficiently excuse his omission.

If it be said that hard cases may arise, and that such a power might with safety and propriety be committed to the courts, it may be answered, first, that hard cases most always occur under any general rule of law, however beneficent or necessary it may be; and secondly, that courts have never felt themselves at liberty to dispense with express provisions of law, whether in statutes of limitations, or in those regulating appeals, or in others, upon any equitable ground. To this effect is the language of the Supreme Court in Saltmarsh v. Tuthill, 12 How., 389; and in "The Bank of Alabama v. Dalton," 9 How., 522, the Supreme Court decided that it could not engraft on a statute of limitations an exception not found therein, however reasonable and just it might be.

It is urged that the case at bar is to be distinguished from those under the statutes of 1824, 1828 and 1830, inasmuch as the latter limited the time within which the petition was to be filed, which was the commencement of the suit; whereas by the act of 1852, the filing of the transcript ipso facto constitutes an appeal. The court, therefore, has jurisdiction of the suit, and the notice is not necessary to confer it. Hence (it is argued) the filing of the notice is not indispensable to the retention of the cause in court, after it has been properly brought there.

It is true that the filing of the transcript operates as an appeal, and the cause is properly in court. But the appeal so taken, and

the jurisdiction so acquired, are obviously but temporary and provisional. The very law which declares that the filing of the transcript shall operate as an appeal, prescribes the period and the conditions of its continuance in court; and though the appeal is pending, and the court has jurisdiction for six months, yet if during that time no notice be filed, the same law requires that the appeal shall be deemed to be no longer pending, or that it shall be regarded as dismissed. The law which gave vitality to the appeal during the period limited, peremptorily deprives it of life, unless certain conditions necessary to continue its existence be fulfilled.

Such we consider would be the construction of statutory provisions like these were, if they related to ordinary suits before a court of general and superior jurisdiction. But they should a fortiori be so construed in this case, where the court has but a special and limited jurisdiction, derived from the statute alone, and to be exercised like the jurisdiction of an inferior court, only in the manner and to the extent prescribed by the statute.

The claimants' counsel have adduced in support of their construction of the statute, an illustration from the practice of the court of chancery in New York. It was, by the rules of that court, provided that if the plaintiff did not reply within a certain time, "he should be precluded from replying." The court, however, on special circumstances, grants leave to file a replication.

But this rule is obviously a mere rule of practice, framed by the court for its own government. Such rules, even when prescribed by a superior tribunal, the court has power to modify to meet the exigencies of special cases—a power which it does not possess over the positive requirements of a statute. 12 Peters, 472; 12 Howard, 389; 9 Howard, 522. Moreover, the practice under this rule shows that it was merely intended to preclude the right of replying as of course, but that it was not intended to take away the right in all cases. The court which made the rule expounds its intention and meaning, and establishes the practice under it.

But if the views heretofore expressed be correct, the provision in the act of 1852 is not to be limited to a rule of practice established by the court, but is a statute of limitation enacted by the legislature. It prescribes a period within which the party is to adopt the appeal which the government has provisionally taken for him, and which is allowed to be pending and awaiting his action for a specified time. His failure to adopt this appeal by filing the required notice, puts him in the same position as if he had been himself required to take it within the same period, and had omitted to do so. We are very sensible of the hardship of this and similar cases. We regret that we have no power to relieve them.

Under the construction we have felt compelled to give to the statute, we have no alternative but to dismiss the claim.

Decree.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Friday, the eighth day of January, in the year of our Lord one thousand eight hundred and fifty-eight; present, the Hon. Ogden Hoffman, dist. judge.

THE UNITED STATES
vs.
EXECUTOR AND HEIRS OF AGUSTIN YTURBIDE. } D. C. 207.—L. C. 281.

This cause came on to be heard on appeal from the final decision of the board of commissioners to ascertain and settle the private land claims in the State of California, under the act of Congress, approved on the 3d of March, A. D. 1851, upon the transcript of the proceedings and decision of the said board of commissioners, and the papers and evidence on which the said decision was founded; and it appearing to the court that the said transcript has been duly filed according to law, and that the decision of the said board of land commissioners was against the said claimants, but that the said claimants did not file a notice with the clerk of this court, within six months after the filing of this transcript, of their intention to prosecute the appeal, and counsel for the respective parties having been heard by the court, it is by the court hereby ordered, adjudged and decreed, that the appeal from the decision of the said board of land commissioners be dismissed for want of jurisdiction in this court to retain the cause.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed January 8, 1858.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order granting Appeal.

In the District Court of the United States, northern district of California.

YTURBIDE'S HEIRS
vs.
UNITED STATES.

In this case, on the application of the claimants made in open court, it is ordered that an appeal in behalf of said claimants from the final decision of this court, rendered in this cause at the present term, be and the same is hereby granted; and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States without delay, upon the appellants entering into bond in the sum

the jurisdiction so acquired, are obviously but temporary and provisional. The very law which declares that the filing of the transcript shall operate as an appeal, prescribes the period and the conditions of its continuance in court; and though the appeal is pending, and the court has jurisdiction for six months, yet if during that time no notice be filed, the same law requires that the appeal shall be deemed to be no longer pending, or that it shall be regarded as dismissed. The law which gave vitality to the appeal during the period limited, peremptorily deprives it of life, unless certain conditions necessary to continue its existence be fulfilled.

Such we consider would be the construction of statutory provisions like these were, if they related to ordinary suits before a court of general and superior jurisdiction. But they should a fortiori be so construed in this case, where the court has but a special and limited jurisdiction, derived from the statute alone, and to be exercised like the jurisdiction of an inferior court, only in the manner and to the extent prescribed by the statute.

The claimants' counsel have adduced in support of their construction of the statute, an illustration from the practice of the court of chancery in New York. It was, by the rules of that court, provided that if the plaintiff did not reply within a certain time, "he should be precluded from replying." The court, however, on special circumstances, grants leave to file a replication.

But this rule is obviously a mere rule of practice, framed by the court for its own government. Such rules, even when prescribed by a superior tribunal, the court has power to modify to meet the exigencies of special cases—a power which it does not possess over the positive requirements of a statute. 12 Peters, 472; 12 Howard, 389; 9 Howard, 522. Moreover, the practice under this rule shows that it was merely intended to preclude the right of replying as of course, but that it was not intended to take away the right in all cases. The court which made the rule expounds its intention and meaning, and establishes the practice under it.

But if the views heretofore expressed be correct, the provision in the act of 1852 is not to be limited to a rule of practice established by the court, but is a statute of limitation enacted by the legislature. It prescribes a period within which the party is to adopt the appeal which the government has provisionally taken for him, and which is allowed to be pending and awaiting his action for a specified time. His failure to adopt this appeal by filing the required notice, puts him in the same position as if he had been himself required to take it within the same period, and had omitted to do so. We are very sensible of the hardship of this and similar cases. We regret that we have no power to relieve them.

Under the construction we have felt compelled to give to the statute, we have no alternative but to dismiss the claim.

Decree.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Friday, the eighth day of January, in the year of our Lord one thousand eight hundred and fifty-eight; present, the Hon. Ogden Hoffman, dist. judge.

THE UNITED STATES
vs.
EXECUTOR AND HEIRS OF AGUSTIN YTURBIDE. } D. C. 207.—L. C. 281.

This cause came on to be heard on appeal from the final decision of the board of commissioners to ascertain and settle the private land claims in the State of California, under the act of Congress, approved on the 3d of March, A. D. 1851, upon the transcript of the proceedings and decision of the said board of commissioners, and the papers and evidence on which the said decision was founded; and it appearing to the court that the said transcript has been duly filed according to law, and that the decision of the said board of land commissioners was against the said claimants, but that the said claimants did not file a notice with the clerk of this court, within six months after the filing of this transcript, of their intention to prosecute the appeal, and counsel for the respective parties having been heard by the court, it is by the court hereby ordered, adjudged and decreed, that the appeal from the decision of the said board of land commissioners be dismissed for want of jurisdiction in this court to retain the cause.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed January 8, 1858.
JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order granting Appeal.

In the District Court of the United States, northern district of California.

YTURBIDE'S HEIRS
vs.
UNITED STATES.

In this case, on the application of the claimants made in open court, it is ordered that an appeal in behalf of said claimants from the final decision of this court, rendered in this cause at the present term, be and the same is hereby granted; and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States without delay, upon the appellants entering into bond in the sum

of two hundred and fifty dollars, with sureties to be affirmed by this court.

Endorsed: Filed February 18th, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Appeal Bond.

District Court of the United States for the northern district of California.

THE EXECUTOR AND HEIRS OF AUGUSTIN YTURBIDE, Claimants and Appellants,
vs.
THE UNITED STATES, Appellees.

Know all men by these presents, that we, Alexander P. Crittenden and William C. Ralston, of the State of California, are held and firmly bound to the above named United States in the sum of two hundred and fifty dollars, to be paid to the said appellee, for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally by these presents. Sealed with our seals and dated the 19th day of February, A. D. 1858.

Whereas the above named appellants have prosecuted an appeal to the Supreme Court of the United States at the city of Washington, in the District of Columbia, to reverse the decree rendered in the above suit by the district court of the United States for the northern district of the State of California: Now, therefore, the condition of this obligation is such, that if the above named appellants shall prosecute his appeal to effect and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void, otherwise to remain in full force and virtue.

A. P. CRITTENDEN. [SEAL.]
W. C. RALSTON. [SEAL.]

Approved February 19, 1858.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed February 19, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

I, John A. Monroe, clerk of the district court of the United States for the northern district of California, do hereby certify that the annexed pages, from one to one hundred and eight inclusive, contain a full, true, and correct transcript of the record on file from the board of land commissioners, together with the pleadings, depositions, orders, opinion, decree and bond filed in this office, in the

case entitled The United States, Appellees, ads. The Executor and Heirs of Augustin Yturbide, Appellants.

In testimony whereof, I have hereunto set my hand, and affixed the seal of the said court, this 19th day of February, A. D. 1858, and of our independence the 82d.

[SEAL.]

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Filed 27th September, 1858.